

Parliament of the Czech Republic

Chamber of Deputies

2009

5th Electoral Term

751

REPORT ON THE STATE OF
BROADCASTING AND THE ACTIVITY
OF THE COUNCIL FOR RADIO AND
TELEVISION BROADCASTING FOR THE
YEAR 2008

Submitted by

the Council for Radio and Television Broadcasting

in accordance with Section 6 (1) and within the deadline pursuant to Section 6 (2) of Act No.
231/2001 Coll.

The Council for Radio and Television Broadcasting approved this Annual Report at its 4th meeting on February 18, 2009 through a resolution concerned with item 6 on the agenda

The Council for Radio and Television Broadcasting, 2009

A. CURRENT LIST OF BROADCASTERS AND RETRANSMISSION OPERATORS

[SECTION 6 (1) (A) OF THE BROADCASTING ACT]

Detailed lists of broadcasters and retransmission operators, including information on the names of the channels, program conditions, terms of the licenses and the geographical areas of broadcasting, are given on the Council's website at www.rrtv.cz. The list of broadcasters and retransmission operators is classified according to the type of broadcasting as follows:

TYPES OF BROADCASTING BASED ON A LICENSE

Licenses are granted by the Council in license proceedings. A license authorizes the broadcaster to pursue radio or television broadcasting. There is no entitlement to a license. A license is granted for a fixed term of 12 years for television broadcasting and 8 years for radio broadcasting.

TABLE 1 - BROADCASTING BASED ON A LICENSE

satellite radio broadcasting
satellite television broadcasting
radio cable systems and satellites
television cable systems and satellites
radio cable systems
television cable systems
DVB-T cable television systems
terrestrial radio broadcasting
nationwide terrestrial radio broadcasting
nationwide terrestrial radio broadcasting, DVB-T
T-DAB terrestrial radio broadcasting (short-term)
terrestrial television broadcasting
terrestrial television broadcasting (experimental)
nationwide terrestrial television broadcasting, DVB-T

TYPES OF BROADCASTING BASED ON REGISTRATION

Registration authorizes the operator to operate retransmission within a cable system or via a satellite. There is entitlement to registration provided that the conditions stipulated by law are fulfilled.

TABLE 2 – BROADCASTING BASED ON REGISTRATION

satellite retransmission
retransmission in cable systems
retransmission in DVB-T cable systems
DVB-T radio terrestrial television retransmission

TYPES OF BROADCASTING BASED ON A SPECIAL LAW

Act No. 483/1991 Coll., on Czech Television

TABLE 3 – BROADCASTING ACCORDING TO THE CT ACT

nationwide terrestrial analogue television broadcasting based on a special law
nationwide DVB-T television broadcasting based on a special law

Act No. 484/1991 Coll., on Czech Radio

TABLE 4 – BROADCASTING ACCORDING TO THE CRO ACT

nationwide terrestrial analogue radio broadcasting based on a special law
nationwide DVB-T radio broadcasting based on a special law

B. INFORMATION ON THE SITUATION IN RADIO AND TELEVISION BROADCASTING AND RADIO AND TELEVISION RETRANSMISSION

[SECTION 6 (1) (B) OF THE BROADCASTING ACT]

The state of affairs in radio and television broadcasting in the Czech Republic was affected in 2008 by the following important events:

- substantial extension of terrestrial digital broadcasting;
- further extension of the digital satellite platform and digitalization of cable broadcasting;
- continuing concentration of ownership in the area of private terrestrial radio broadcasting;
- conflict in the area of disconnection of nationwide and regional radio broadcasting;
- new methodology of calculating the coverage of the population by radio broadcasting.

MARKET SITUATION

The Czech Republic has a developed system of dual broadcasting.

TABLE 5 - OVERVIEW OF THE NUMBER OF AUTHORISATIONS FOR RADIO AND TELEVISION BROADCASTING AND RADIO AND TELEVISION RETRANSMISSION AS OF DECEMBER 31, 2008

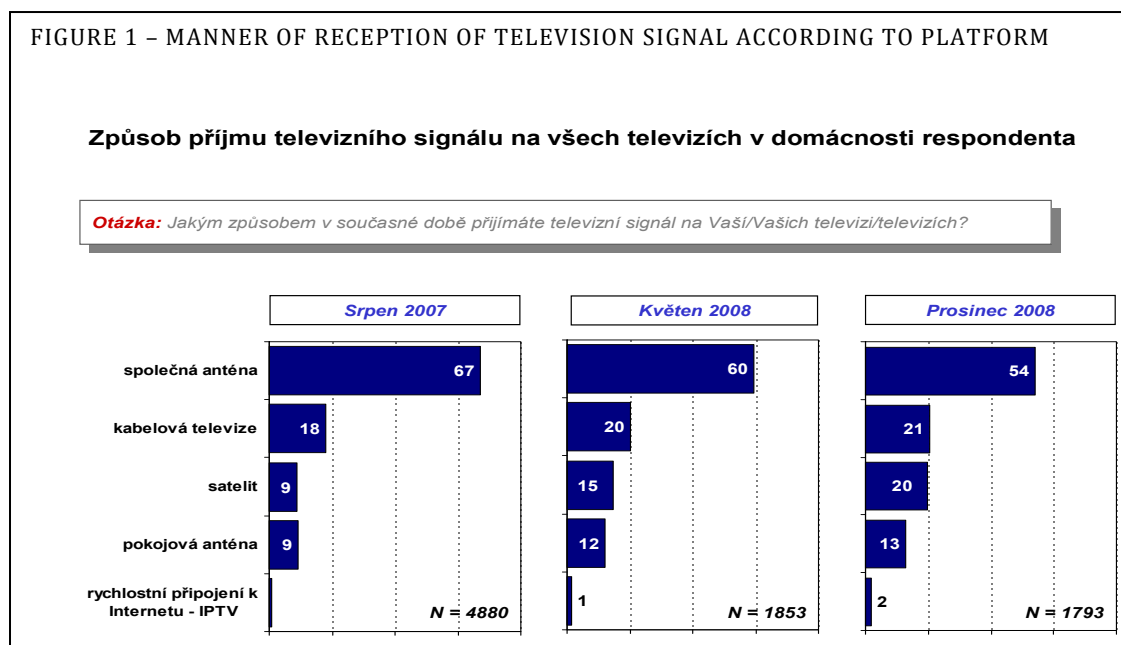
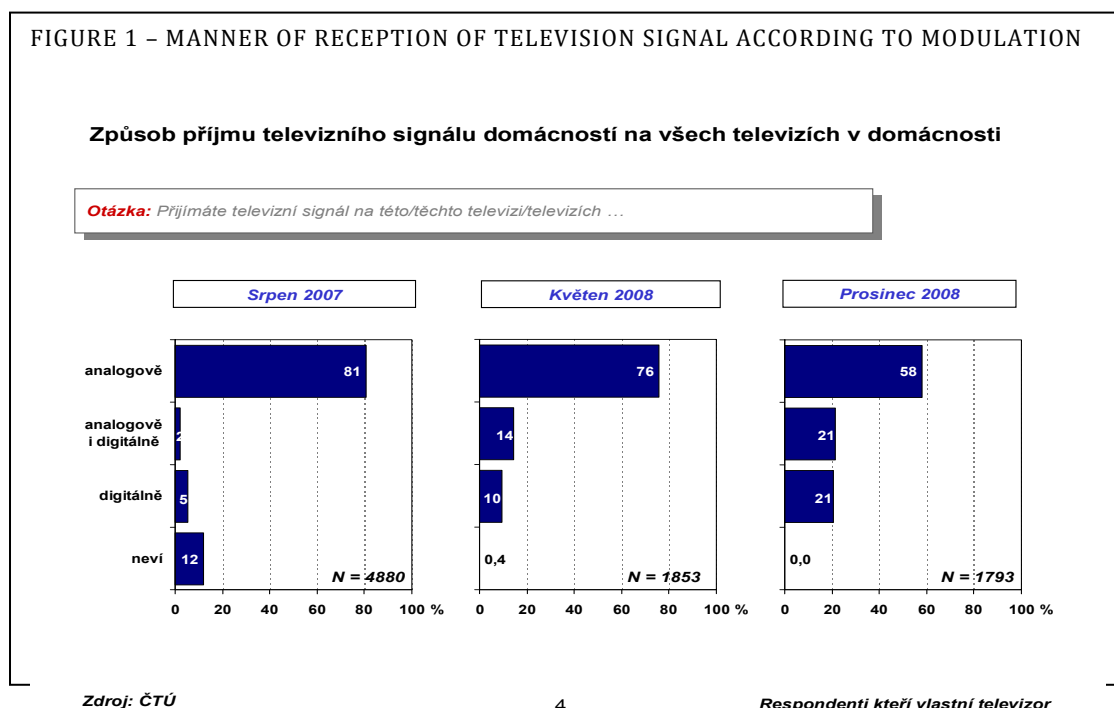
Television broadcasting via terrestrial transmitters (terrestrial television)	26
Television broadcasting via terrestrial transmitters in the DVB-T system	5
Television broadcasting via satellites (satellite television)	37
Television broadcasting via cable systems and satellites (television cable systems and satellites)	9
Television broadcasting via cable systems (television cable systems)	95
Television broadcasting via cable systems and in the DVB-T system (television cable systems, DVB-T)	1
Radio broadcasting via terrestrial transmitters (terrestrial radio)	92
Radio broadcasting via satellites (satellite radio)	3
Radio broadcasting via cable systems (radio cable systems)	2
Radio broadcasting via cable systems and satellites (radio cable systems and satellites)	2
Radio broadcasting via terrestrial transmitters in the T-DAB system (radio terrestrial in the T-DAB system, short-term)	3
Radio and television retransmission via satellites (satellite retransmission)	6
Radio and television retransmission via cable systems (retransmission in cable systems)	120
Radio and television retransmission via cable systems and terrestrial transmitters (retransmission in cable systems, DVB-T)	1
Radio and television retransmission via terrestrial transmitters (terrestrial radio and television retransmission, DVB-T)	1

The transformation of the relations amongst the individual platforms for delivery of the signal was accelerated in 2008.

As follows from the data obtained in the research performed by the GfK agency on the basis of a CTO order, the number of households receiving television signal only by analogue means has been rapidly decreasing. This is caused, on the one hand, by the fact that the transition from analogue to digital reception in cable broadcasting and retransmission has been very successful so far and, on the other hand, by the sharply increasing number of households connected to satellite broadcasting either individually (DTH) or through common antennas (SMATV).

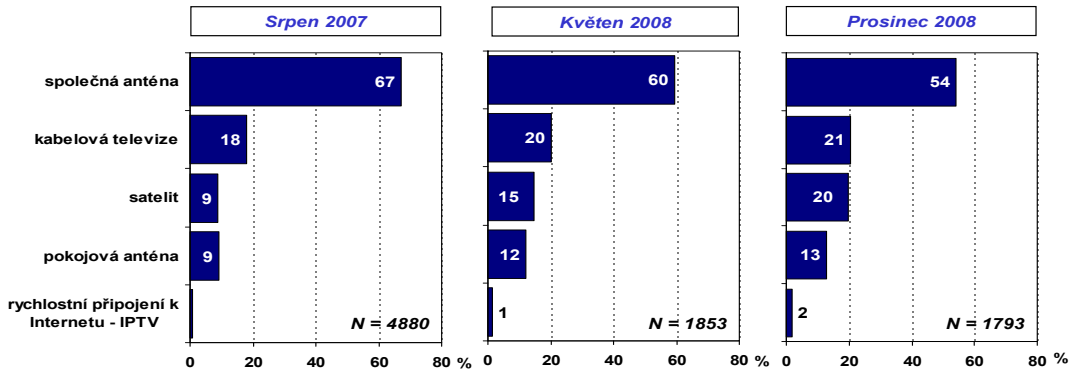
According to certain estimates, approximately 50 % of households that have a cable connection are already receiving the signal in digital form. 20 % households that receive signal via satellite equal approx. 1.1 to 1.2 million households. It can be anticipated that the number of households receiving signal from satellite will increase by a further 400,000 next year. The satellite platform will thus practically equal terrestrial broadcasting.

However, we still do not have available data that would unambiguously indicate the number of households that have more than one television set, and to which the platforms they are connected. It follows from a survey carried out by GfK that, at the end of 2008, 21 % of households received signal both in analogue and in digital form; however, it is unclear whether the analogue signal originated from a cable or terrestrial transmitter.



Způsob příjmu televizního signálu na všech televizích v domácnosti respondenta

Otázka: Jakým způsobem v současné době přijímáte televizní signál na Vaši/Vašich televizi/televizích?



Zdroj: ČTÚ

5

Respondenti kteří vlastní televizor

Manner of reception of television signal by households in all TV sets in the household

Question: Do you receive television signal in this/these TV set(s)...

August 2007 May 2008 December 2008

in analogue form

in analogue and digital form

in digital form

I don't know

Source: CTO Respondents who own a TV set

Question: In what manner do you currently receive television signal in your TV set(s)

August 2007 May 2008 December 2008

common antenna

cable TV

satellite

aerial

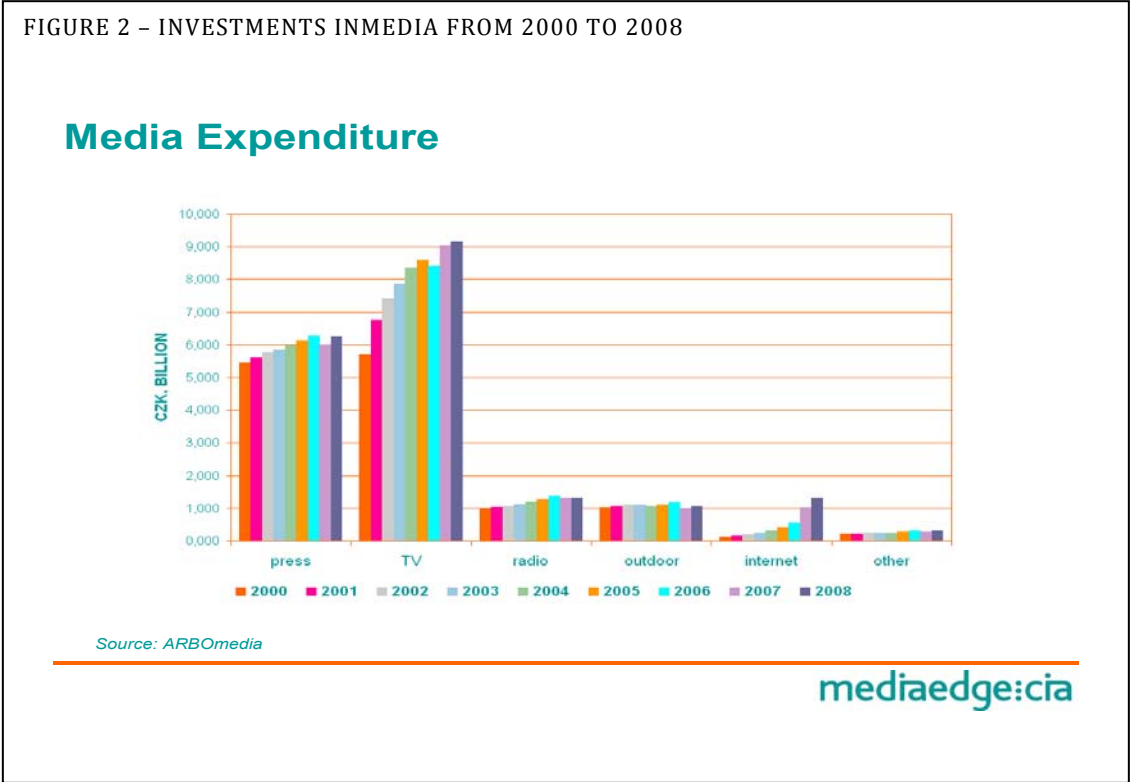
broadband Internet connection – IPTV

Source: CTO Respondents who own a TV set

In radio broadcasting, the competition between nationwide and regional broadcasters has led to concentration of property relations of the regional broadcasters. The situation on the radio market is described in detail in another part of the annual report.

ESTIMATION OF NET INVESTMENTS

The trends in investments in advertising are decisive for the development of the radio and television markets. As follows from Fig. 3 (2? - trans.), investments in television have been growing, particularly due to the constant increase in prices. The increased competition has not yet yielded results. However, Fig. 4 (3? - trans.) indicates that, in the categories of adults from 15 to 24 years of age and children between 4 and 14 years of age, the share of "other" television channels exceeds 15 per cent.

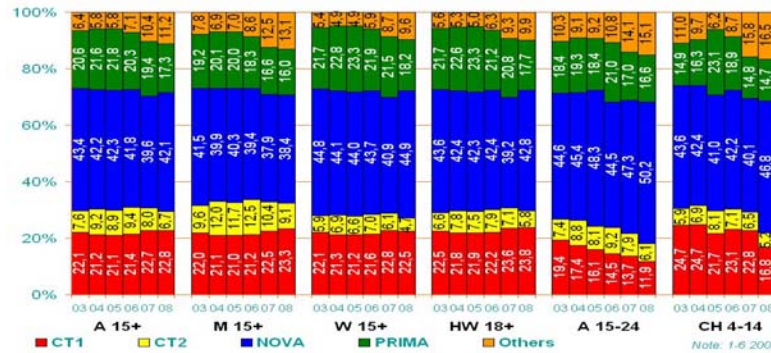


Source: ARBOMedia

** **Estimated net investments** (actual expenditures after inclusion of bonuses, discounts, etc.). This figure is decisive with respect to the level of actual income from TV advertising. Unfortunately, ARBOMedia do not publish estimated net investments for individual broadcasters.

FIGURE 3 – MARKET SHARE OF INDIVIDUAL TELEVISION CHANNELS FROM 2003 TO THE 1ST HALF OF 2008

Share of market 2003 – 1.sem. 2008



Source: ATO - Mediaresearch – TV Projekt (2003 – 6_2008)

mediaedge:cia

LICENSES FOR DIGITAL TELEVISION BROADCASTING

On the basis of the license proceedings held in 2006, the Council has granted licenses for terrestrial digital television broadcasting to two full-format channels, TV Barrandov and Febio TV, three theme channels, “O”, Z1 and children’s TV Pohoda, and finally, the RTA regional channel.

Based on the transitory provisions of Act No. 304/2007 Coll., the Council has granted a compensation license, first to Barrandov Televizní Studio a.s., and later to První zpravodajská a.s., for broadcasting of the Z1 channel. Television “O” broadcasts in terrestrial networks also without a compensation license, as its program consists in retransmission of the same program licensed for satellite and cable networks.

Z1 commenced broadcasting on June 1, TV Barrandov plans its launch for January 11, 2009. The other three programs have not yet applied for compensation licenses. Act No. 304/2007 Coll. stipulates no deadline within which they should apply for the license.

In December, a compensation license pursuant to Art. IV (4) (a) of Act No. 304/2007 Coll. was granted to CET 21 spol. s r.o., for broadcasting of the Nova Cinema channel; i.e. this was a compensation license for a nationwide television broadcaster conditional on the consent to the fulfilment of the Technical Transition Plan.

EBD, s. r. o., and FTV Prima, spol. s r. o., obtained compensation licenses in accordance with Art. II (9) of Act No. 235/2006 Coll. These licenses are nationwide licenses for digital terrestrial broadcasting; the operators of regional television stations are entitled to obtain such licenses

under certain conditions. EBD intends to broadcast the TV7 channel, while FTV Prima, spol. s r. o. wants to broadcast a women's channel, Prima klub.

Thus, seven licenses allowing for digital terrestrial television broadcasting were active at the end of 2008, in addition to the 4 channels of Czech Television.

TABLE 6 – OVERVIEW OF LICENSES GRANTED FOR DIGITAL TERRESTRIAL TELEVISION BROADCASTING

Broadcaster/operator	Original license	Compensation license subject to consent to TTP	Compensation license for regions	Compensation license - new
CET 21 spol. s r. o.	pending	pending (the Nova Cinema channel)	xxx	xxx
FTV Prima, spol. s r. o.	pending	not applied for	granted (the Prima klub channel)	xxx
EBD, s. r. o.	xxx ¹	xxx	granted (the TV7 channel)	not applied for
První zpravodajská, a. s.	xxx	xxx	xxx	pending
Barrandov Televizní Studio, a. s.	xxx	xxx	xxx	granted
Televize FEBIO s. r. o.	xxx	xxx	xxx	not applied for
Stanice O, a. s.	xxx	xxx	xxx	not applied for ²
TP Pohoda s. r. o.	xxx	xxx	xxx	not applied for

¹ xxx = N/A

² Broadcasts in terrestrial networks as retransmission

TABLE OF DATA ON ACTO AS OF DECEMBER 31, 2008 AND COMPARISON WITH THE YEAR 2007

TABLE 7 – DATA ON ACTO AS OF DECEMBER 31, 2008

Organisation	Contact address	Active plugs as of December 31, 2007	Active plugs as of December 31, 2008	Change compared to December 31, 2007	Number of TV channels as of December 31, 2007	Number of TV channels as of December 31, 2008	Change compared to December 31, 2007	Internet access points as of Dec 31, 2007	Internet access points as of Dec 31, 2008	Change compared to December 31, 2007	Digital format	Other services
4M Rožnov spol. s r. o. (new member)	Videčská 473, 756 61 Rožnov pod Radhoštěm	0	3110	3110	0	58	58	0	1560	1560	NO	
AQUA a. s.	Mukařovská 25 100 00 Praha 10	1401	1401	0	21	28	7	1000	1500	500	IPTV*	
CATR spol. s r. o.	Jeremenkova 41 140 00 Praha 4	8149	7832	-317	31	46	15	1375	1593	218	NO	
CORSAT s. r. o. (new member)	K Nemocnici 18 741 01 Nový Jičín	0	2194	2194	0	36	36	0	151	151	NO	
ELSAT spol. s r. o.	Bezdvěřská 1082/9 370 11 České Budějovice	10835	10841	6	32	46	14	2500	3050	550	DVB-C	
GTT a. s.	Hornátecká 1772/19 182 00 Praha 8	47	58	11	15	11	-4	0	0	0	NO	
HBTV spol. s r. o. 1)	Ledečská 2848 580 01 Havlíčkův Brod	3415	4395	980	61	53	-8	870	1000	130	DVB-C	
HDD s. r. o.	Kyselova 1185/2, Praha 8, 183 00	267	812	545	35	50	15	0	0	0	DVB-C IPTV	
Jiří Florián - Elektro	Viničné Šumice 349 664 06	301	301	0	19	21	2	0	0	0	NO	
K + K cable s. r. o.	Masarykova 159 399 01, Milevsko	6710	6962	252	24	25	1	3700	3982	282	DVB-C	VoIP
K.T.V.M., spol. s r. o. 1)	Komenského 16/3 594 01 Velké Meziříččí	2238	1990	-248	28	38	10	300	500	200	DVB-C*	
Kabelová televize CZ s. r. o.	Nádražní 115, 560 02 Česká Třebová	17123	18696	1573	55	56	1	4639	5720	1081	DVB-C	VoIP
Kabelová televize	Dukelská 1240	1660	1697	37	24	24	0	338	385	47	NO	

Jeseník s. r. o.	790 01 Jeseník												
Kabelová televize Kadaň a. s.	Jungmanova 742 432 01 Kadaň	6982	7017	35	47	51	4	2948	3985	1037	DVB-C*		
Kabelová televize Kopřivnice s. r. o. (new)	Obránců míru 988, 742 21 Kopřivnice	8647	8925	278	40	50	10	2800	3023	223	DVB-C		
Kabelová televize Přerov, a. s.	U Bečvy 2883 750 02 Přerov I - město	17423	18398	975	25	40	15	6973	8030	1057	DVB-C DVB-T	VoIP	
Kabelová televize Třinec spol. s r. o.	nám. Svobody 526 739 61 Třinec	9732	10052	320	44	45	1	4108	5048	940	DVB-C*	VoIP	
KATEL spol. s r. o.	Zlatá stezka 167 383 01 Prachatice	453	462	9	30	25	5	0	0	0	NO		
Katro Servis spol. s r. o.	U Potoka 267, 513 01 Semily	9418	9734	316	29	47	18	1221	1500	279	NO		
KONSAT spol. s r. o.	Livornská 427 109 00 Praha 10	204	186	-18	68	84	16	0	0	0	DVB-C		
MAME Morav. Budějovice s. r. o.	Tovačovského sady 98 676 02 Moravské Budějovice 2	1964	2004	40	23	24	1	1208	947	-261	NO		
NOEL v. o. s.	Na Pískách 3 695 01 Hodonín	4767	4803	36	47	46	-1	214	472	258	NO		
RTV - 5 spol. s r. o. 1)	P.O.Box 20 Pošta 2, Slovácká 39 690 02 Břeclav	3195	3282	87	25	45	20	1557	1682	125	DVB-C		
TKR Jašek s. r. o.	Nádražní 628 756 61 Rožnov pod Radhoštěm	2399	3434	1035	35	48	13	2950	3650	700	DVB-C* IPTV*	VoIP	
TVNET spol. s r. o.	Rezlerova 304, 109 00 Praha 10	3110	3090	-20	30	30	0	0	0	0	NO		
Total		120440	131676	11236				38701	47778	9077			

Note: Annual Report of the Association Cable and Telecommunication Operators (ACTO) for 2008 is available at www.apkt.cz

These companies merged, in 2008, into BKS Capital Partners. Data as of June 30, 2008; * = experimental operation.

COMPARISON OF 2008 WITH 2007

- ✓ The number of members of ACTO operating television cable networks (TCN) increased from 22 to 25
- ✓ The number of operated TCN broadband networks (localities) increased by 12 to 162
- ✓ The number of active plugs in TCN of ACTO members increased by 11,236 (+ 9.3 %) to 131,676
- ✓ The number of channels offered (domestic + foreign) disseminated in TCN's of the members of ACTO slightly increased from 141 to 145 , particularly with respect to operators of TCN's offering television programs also in digital format (DVB-C)
- ✓ Further members began experimental broadcasting and some of them also commercial provision of DVB-C simultaneously with analogue transmission, or cable DVB-T format. Internet television (IPTV incl. Video-on-Demand, VoD) has been offered only experimentally to date
- ✓ Some members also began to provide other electronic communication services, particularly telephone on the basis of the IP protocol (VoIP)
- ✓ The increase in the number of broadband Internet connections was again the most marked: This number increased by 9,077 (by 23.5 %) to 47,778
- ✓ A majority of TCN locations are connected to the backbone Internet network by optical connections, which simultaneously transmit data and digital television

LEGISLATIVE CHANGES RELATED TO THE OPERATION OF TELEVISION AND RADIO BROADCASTING

Minor changes took place in 2008 in relation to the operation of radio and television broadcasting. The first amendment to the Broadcasting Act was introduced by Act No. 124/2008 Coll., amending Act No. 269/1994 Coll., on the Criminal Records, as amended, and some other laws. The change is related to the introduction of electronically accessible Criminal Records.

Another minor amendment, in this case merely a terminological specification, was brought by Act No. 384/2008 Coll., amending Act No. 155/1998 Coll., on the sign language and on amendment to some other laws, and the related laws.

Discussions on the transposition of the Audiovisual Media Services Directive took place during the entire year 2008. Furthermore, Government proposals for amendment to the Electronic Communications Act and the Broadcasting Act were submitted to the Chamber of Deputies; these amendments provide for certain instruments that are not directly related to digitalization.

CONSUMER PROTECTION

In 2008, the Council again fulfilled certain tasks related to consumer protection, as they follow from Regulation (EC) No 2008/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws. The Council is specifically responsible for supervision related to the Television without Frontiers Directive. The regulation related to this task is concentrated, in addition to the Regulation itself, in the Broadcasting Act in the Advertising Act.

In relation to this Regulation, in 2008, the Council gained access to the database of the CPC (Consumer Protection Cooperation) system; however, for technical reasons, this access is limited to one year for the time being.

Simultaneously, on request of the European Commission, mediated by the Ministry of Industry and Trade, the Council created and sent statistics of enforcement indicators for the year 2007, which should form a basis for the second issue of the Consumer Markets Scoreboard. Of the original seven indicators, the evaluation was ultimately reduced to three basic indicators – 1.) number of controls/investigations, 2.) number of notices/complaints lodged with respect to activities of an entrepreneur/seller in relation to breach of legal duties in the area of consumer protection; and 3.) number of litigations/administrative proceedings (initiated or terminated).

In relation to the tasks of the Council, the required data are concerned particularly with television and radio advertising and potential breach of duties in broadcasting thereof, which could endanger consumer rights. All the analyses performed indicated a total of 109 proceedings commenced on the grounds of breach of the duties stipulated by the Advertising Act. A total of 68 fines were ultimately imposed in these proceedings.

Furthermore, it was ascertained, on the basis of the performed analysis, that the Council received a total of 983 instigations that could be considered to be a complaint during the year 2007. A majority of these complaints tended to be concerned with the Council's competence in the area of regulation of broadcasting – complaints related to worse or low-quality signal, contents of programs that could unsuitably impair moral development of children and youth (reality shows and other programs that should be broadcast, given some of their aspects, after 10:00 p.m.), lack of balance in news and political programs, or increased volume in broadcasting advertisements compared to the volume of a movie. These complaints could have the character of a consumer complaint only if the viewer or listener were perceived as a consumer of broadcasting of the individual programs.

Other instigations that had the character of a typical consumer complaint included complaints for violation of the Act on Regulation of Advertising; the Council received a total of 41 such complaints in 2007.

A total of 109 administrative proceedings were commenced in 2007.

TRENDS IN BROADCASTING AND MONITORING OF THE CONTENTS

One of the substantial aspects of the Council's competence consists in monitoring of the contents of radio and television broadcasting, which is stipulated in Section 5 (g) of the Broadcasting Act. This control of contents is carried out from the viewpoint of compliance with the legal

regulations in the area of radio and television broadcasting and with the conditions stipulated in the decisions on granting a license or in the decisions on registration. While the results of controls of the contents of radio and television broadcasting in 2008 are discussed elsewhere in this Report from the viewpoint of both analysis of the contents and the legal aspects, this part concentrates on the subject of monitoring as a whole and the dynamics of the relevant trends.

The statutory provisions on the Council's control function in relation to the contents of broadcasting are only a basis for the performance of this function by this administrative authority. The Council can duly perform the control function in relation to the contents of the broadcasting only through appropriate means.

The fact that the Czech Republic is undergoing development of digital terrestrial broadcasting is a generally well-known fact. However, the real meaning of this change is somewhat obscured in the eyes of the public by the transition from analogue to digital broadcasting. This transition is sometimes understood, not entirely accurately, as only a technical change. While the general public strongly perceives the abandoning of analogue television broadcasting, the sense of this change is not only to modify the parameters of signal distribution, and to increase the technical level of the currently broadcast channels and supplement them by related services, but also, and to a substantial degree, to create space for other channels. Some of these channels were already broadcast in 2008; nevertheless, from the viewpoint of 2008, the launch of part of the new digital television channels was still a question of the future, as we are witnessing, e.g., at the beginning of 2009. Certain forms of broadcasting other than broadcasting from terrestrial transmitters, and their rapid and *de facto* continual development, are being somewhat overshadowed by digitalization of terrestrial broadcasting. However, at least in the area of television broadcasting, which is more important than radio broadcasting from the viewpoint of the viewer ratings, satellite and cable broadcasting involves an absolutely dominant number of programs (channels) from the viewpoint of their quantity. Note must be made of broadcasting of foreign channels in the territory of the Czech Republic, both directly from satellites and, particularly, their secondary broadcasting in cable systems based on registration. From the viewpoint of the geographical area, these include nationwide, regional and local channels and, from the viewpoint of the scope of broadcasting, they range from channels broadcast 24/7 to short infotext loops. All this broadcasting should be covered by the Council's monitoring in some way.

It has also been shown in practice that, in the area of monitoring of the contents of broadcasting, the Council increasingly requires cooperation from, and needs to provide cooperation to, similar administrative and inspection authorities in countries to which broadcasting licensed by the Council is aimed with respect to territories other than the Czech Republic or from which broadcasting licensed abroad is disseminated to the territory of the Czech Republic. This transboundary aspect has come to existence within control of the contents of broadcasting; however, it exceeds this sphere. Experience indicates that this is an area that will require increased attention, not only as a matter of principle, but also due to the fact that specific complaints involving such transboundary aspect must be dealt with. It should be pointed out that the Broadcasting Act provides only very little guidance on this subject and, in fact, is obsolete in this respect. At the time when the wording of the Broadcasting Act was conceived, the phenomenon of programs broadcast with a number of optional language tracks was practically non-existent; as a consequence of this phenomenon, licensed programs are being broadcast to the territories of a number of countries within a single license, typically a license for satellite broadcasting. The recent developments have also led to fundamental extension of the capacities for broadcasting satellite programs, which can very easily be secondarily

disseminated through cable networks. If the regime of arising of the authorization for retransmission in the Czech Republic is then compared with the arising of the authorization to broadcast on the basis of a license, we can see that programs very easily penetrate into the Czech broadcasting territory, while successfully evading certain provisions of the domestic legislation, as the scope of duties in retransmission based on registration is smaller than in broadcasting based on a license, not to mention the availability of registration compared to the access to licenses. Experience also shows that the situation is also very similar in the opposite sense – with respect to granting of licenses by the Council pursuant to the Czech legislation in relation to programs intended for other territories. It has been shown that the principles of Television without Frontiers, together with the technological developments, have given rise to a state, where it is beneficial for the potential broadcasters to obtain broadcasting authorizations in a country other than the home country or where licenses for other territories are attached to a license intended for use in the home country, without examination of conformity with the applicable legislation in the other countries and without there being any duty to provide information, etc. It should be pointed out that a much higher number of television channels in the Czech language are broadcast in the territory of the Czech Republic on the basis of a foreign license for primary satellite broadcasting than, e.g., the number of channels in nationwide terrestrial broadcasting. The significance of this phenomenon appears to be diminished by the aspect of importance of the relevant channels based on the current viewer rate; however, the market shares of these channels have been growing particularly with respect to younger age groups. Rather than in direct reception of satellite broadcasting (e.g. the UPC Direct offer), this problem tends to appear in retransmission via cable systems, which realistically (rather than theoretically from the viewpoint of availability of the satellite signal) cover a much wider audience. In the Czech Republic, the Broadcasting Act provides the Council with very weak instruments for the control of retransmission, as regards primary foreign licenses. For example, the broadcasters are not obliged to archive recordings of their programs, the basic duties related to the contents of the program are applicable to a limited extent, etc. The fact that there are substantial differences in the approaches of the Member States to granting broadcasting licenses has given birth to a very odd phenomenon of “license tourism”. E.g., in Hungary, the license holder must pay EUR 10,000 for the license each year. Compared to this, the costs in the Czech Republic – a lump-sum administrative fee of CZK 50,000 for a period of 12 years - equal roughly EUR 160 per year. This results in the fact that more and more applicants apply for a license in the Czech Republic, which, however, leads to increased costs of monitoring and dealing with complaints from territories to which the licensed programs are broadcast. An increasing number of complaints from Hungary could be mentioned in this respect. Failure to deal with the issue of the amount of fees for broadcasting licenses thus increases the administrative requirements on the Council’s activities. The relatively low income of the State from administrative fees is at variance with the increased costs of monitoring.

Not only an increasing quantity of channels can affect the performance of the Council’s control function in relation to the program content. Here it would be suitable to note the consequences that are likely to follow, in the near future, from implementation of the EU Audiovisual Media Service Directive with respect to the scope of the “contents” subject to the Council’s control function. One of the material objectives of the Directive is to facilitate the creation of a single information space for all audiovisual media services, i.e. both for television broadcasting (i.e. linear audiovisual media services) and for on-demand audiovisual media services (i.e. non-linear audiovisual media services). The Directive extends the scope of regulation by audiovisual media services “similar to television broadcasting” *de facto* without respect to the manner of signal distribution, and defines the scope of regulation from the viewpoint of the potential public

impact – as the area of mass media, i.e. services that are intended for reception by a substantial part of the general public and that could have a clear impact on them. At the present time, the Broadcasting Act does not explicitly consider broadcasting via remote access – the Internet – which naturally can be, and already is, realistically used for dissemination of the services corresponding to the scope of services mentioned by the AVMS Directive, to constitute radio and television *broadcasting*. Thus, implementation of the Directive could not only result in certain modifications of the text or partial extension of the Broadcasting Act, but could, as a consequence, result in substantial immediate extension of the Council's competence to include services that have not been subject to its control powers to date, and the resulting need for covering these services by the Council's monitoring. It need not be emphasized that neither the current monitoring capacity nor the Council's technical equipment corresponds to these tasks.

Higher effectiveness of the program control function of the Council is partly prevented by the obsolete legislation. Unfortunately, there was no change in this area in 2008 and thus what was already stated previously continues to be true. For example, the Broadcasting Act suffers from inadequacies and gaps in definitions of terms in the program area, including key terms; it links certain basic duties of the broadcasters and retransmission operators solely to individual programs, rather than the channel itself (although, in an extreme case, a channel need not be structured into individual programs at all); it unclearly and inadequately defines the duties of the broadcasters and retransmission operators in compulsory archiving of recordings which are required for the performance of control; it does not deal with the Council's access to information on the contents of the broadcast programs; the Act stipulates certain duties of broadcasters and operators without the ensuing penalties; the Council cannot initiate removal of historical or obsolete elements from the license conditions, etc. Amendments to the Broadcasting Act regularly deal with the most pressing issues, such as harmonization with the EU legislation, but with the same regularity neglect modernization and improvement of the text of the Act as a whole. Absence of secondary legal regulations in the area of broadcasting, which the Council is not authorized to issue or initiate, is also a fact. The imperfectness of the statutory delimitation, legal regulations and documents, including licenses (a substantial part of which originated at the time of the former legislation) also complicates the performance of the Council's control function in relation to the contents of broadcasting.

The results of control of radio and television broadcasting for the year 2008, compared to the previous years, attest to a substantial increase in the quantity of issues that had to be and need to be resolved, also within the context of the developments and limitations, as described above. However, in spite of partial improvement in 2008 in the area of human resources and the budget, there continues to be a substantial disproportion between the breadth and complexity of the agenda of this governmental authority in the dynamically developing area of radio and television broadcasting, on the one part, and the resources that are available, on the other part.

The limited options available to the Council, particularly in the area of support for the effectiveness of the professional work of the administrative authority (inappropriate technical equipment and information system) and also limited human resources constitute substantial limiting factors for effectiveness, not only of the program-control activities of the Council. The dedication to the performed monitoring and related administrative activities under the current conditions, which can be documented by the constant increase in the quantity of compiled analyses of the program, subsequent administrative proceedings and litigations, has been a long-term issue. The constant increase in the agenda and the trends in its quality would require a deeper systemic analysis and creation of a new comprehensive system for the support of the Council's work; however, this is prevented by a lack of the necessary workforce and means

resulting from the current relationship between the breadth and complexity of the agenda, on the one hand, and the available investment, operational and human resources, on the other hand. It continues to be true that the Council's activity is supported particularly by common office equipment, while technical and other systemic means that would correspond to the specific competence of the administrative authority in the area of radio and television broadcasting are, in fact, beyond the Council's possibilities. The lack of financing, in turn, directly hinders effectiveness, where, e.g., due to insufficient administrative and technical support, professional workers are also forced to provide for the necessary, but less qualified, tasks which are directly related to their legal agenda, or where the high number of individual controls of radio and television broadcasting, except for nationwide broadcasting, are burdened by purposeless bureaucratic elements related to the compulsory requests for recordings from broadcasters and operators which are currently unavailable to the Council. The concept of compulsory archiving of recordings by broadcasters and operators (under unsuitable conditions, such as a short 30-day deadline; a link only to programs rather than to broadcasting as a whole; absence of the information duty regarding the contents of the archived recordings; absence of the possibility of modifying the requisites of compulsory archiving by the Council) and the need for the Council to request these recordings have become a clear burden. It is also a fact that the Council, as a central governmental authority, can offer its professional workers with the corresponding qualifications, whether they are lawyers, program analysts or other employees, remuneration below the average salary, which leads to undesirable fluctuation and the ensuing labour issues, and also issues related to obtaining new high-quality employees. Nonetheless, university education, practical experience and demonstrable analytical capacities are essential prerequisites of successful work of monitoring employees and lawyers.

Systemic analysis of the needs of a governmental authority in the specific area of radio and television broadcasting (or perhaps, in the future, in the area of audiovisual media services), and proposal and subsequent implementation of a new comprehensive regime to support its control activities first requires a serious discussion on this topic, if only given the investment and operational requirements that must be anticipated and that cannot be accurately estimated at present. Nevertheless, the current extension of the Council's agenda, whether based on an increase in the number of channels or an increase in the number of related administrative proceedings and litigations, requires at least a partial increase in the personnel providing for monitoring of the contents of broadcasting, the subsequent legal aspects of administrative proceedings and litigations and administrative and technical support for monitoring and the related issues. Although, of course, fines do not constitute the actual sense of the Council's activities in program control, it should be noted that the quality of the controlling activities of the Council also has this benefit, while the main benefit resulting from monitoring of the program contents lies in improved performance of the broadcasters' duties and higher quality of broadcasting with respect to the requirements of the law or the relevant license. At least a partial increase in the number of personnel is required for all three components of the team, i.e. program analysts, lawyers and administrative-technical support for monitoring. The greater extent of monitoring also requires a partial increase in the budgetary means for operational and technical purposes.

SITUATION IN THE RADIO MARKET

In comprehensive description of the situation in the market for private radio broadcasters and retransmission operators, it is necessary to pay further attention to several areas that cause or could cause problems in the Council's work. The aforementioned areas include specifically:

The issue of program networks (particularly in relation to the license conditions);

The issue of disconnected frequencies (particularly in relation to the license conditions); the issue of disconnecting includes, on the one hand, disconnection of regional newscasts and, on the other hand, local advertising – the issue of disconnecting is described in more detail with emphasis on nationwide channels in the following text of this chapter.

The issue of license conditions and their potential analysis for comparison of individual licenses (in accordance with the evaluation criteria stipulated in Section 17 (1) of the Broadcasting Act, whether for the purposes of the proceedings pursuant to Sections 20 and 21 of the same Act (a change in the set of technical parameters and a change in the geographical area of broadcasting) or for the purposes of further licenses proceedings);

The issue of termination of the license for a major group of broadcasters in the coming years;

The issue of analysis of the individual programs (e.g., in connection with the previous area and the potential granting of new licenses, unless the Broadcasting Act is amended);

The issue of coverage of the population (i.e. those who can receive the program) by individual channels or groups that are interconnected by assets and personnel (or otherwise), both pursuant to the ITU methodology from 1984 and according to the methodology newly adopted by the Council (margin 6).

An overview of the individual transmitters allocated for broadcasting of the individual channels (licenses), including determination of the basic transmitters (allocated simultaneously with the decision on granting the license) and supplementary frequencies (i.e. frequencies allocated in proceedings pursuant to Sections 20 and 21 of the Broadcasting Act) – is part of the Annual Report in Chapter F; the remaining table comparison of the frequencies allocated to the individual broadcasters and operators and property groups with emphasis on the frequencies granted in 2003-2008 and with focus on the performance of the allocated frequencies and the structure of programs is provided in an annex on a CD.

PROGRAM NETWORKS

The statutory regulation of program networks from the viewpoint of the Broadcasting Act is very ambiguous; *de facto*, the Act does not stipulate the Council's competence in the area of regulation and supervision in their creation (see the selected provisions of the Act):

Article 2 (1) (d) Program network means joint composition of channels or their substantial parts or mutual retransmission of channels or substantial parts thereof and their simultaneous dissemination by several broadcasters.

Section 57 A program network may not cover, by radio broadcasting or by television broadcasting, more than 70 % of the total population of the Czech Republic, calculated according to the data following from the last census.

These provisions do not clearly indicate the need that information on a program network be part of the license conditions. Probably the only guidance can be found in Section 57 (a program network may not cover more than 70 % of the total population of the Czech Republic), where it is envisaged that the Council will have competence to ascertain and regulate a program network's coverage. In order for it to be able to fulfil this role, the Council must have demonstrable information on the individual radio channels involved in the network. Nevertheless, this does not indicate the need to regulate this through a license condition; a different manner of regulation would be theoretically possible (information for the Council at its request or information on the creation of a program network or on its extension or reduction). This is also reflected in the resolution adopted by the Council at its 20th meeting:

“The Council invites the broadcasters RADIO CRYSTAL s. r. o., Rádio Dragon s. r. o., RADIO FAKTOR s. r. o., FRANTIŠEK VOSTÁL s. r. o., RADIO MOST, společnost s ručením omezeným, ORION, s. r. o., EN-DAXI, s. r. o., RADIO METUJE, s. r. o., RADIO FM Plus Plzeň s. r. o., North Music s. r. o., RADIO LIFE s. r. o., ESA - rádio s. r. o., M+M spol. s r. o., Definitely s. r. o., ELDORADIO s. r. o., Rádio Venkow, spol. s r. o., ČESKOMORAVSKÉ RÁDIO s. r. o., „Rádio Děčín“ s. r. o., CITY MULTIMEDIA, společnost s ručením omezeným, Radio Šumava, s. r. o., Rádio TEP, a. s., Faktor, Ladislav, JUDr., V plus P s. r. o., AZ Rádio, s. r. o.; FAJRONT BS, s. r. o., Pražské inforádio, s. r. o., Star Promotion, s. r. o., Rádio Podještědí, s. r. o., Rádio Profil s. r. o.; Radio Krumlov, s. r. o., RADIO PUBLIKUM spol. s r. o., Rádio Bohemia, spol. s r. o., RADIO STATION BRNO, spol. s r. o., DELTA MEDIA BROADCASTING s. r. o., RADIO MORAVA s. r. o., Radio ProTon s. r. o.; EVROPA 2, spol. s r. o., Rádio DUHA, spol. s r. o., and Radio West Plzeň s. r. o., that they provide information – in the framework of the fulfilment of the tasks in the Council's competence pursuant to Section 5 (a) of Act No. 231/2001 Coll.: the Council supervises over compliance with the legal regulations in the area of radio and television broadcasting and the conditions stipulated in a decision on granting a license or a decision on registration; specifically, supervision over the duties set out in Section 57 of the Broadcasting Act – as to whether the channels broadcast by them are part of a program network and, if so, what network.“

To date, replies have been delivered with respect to this resolution from broadcasters EVROPA 2, spol. s r. o., Rádio DUHA, spol. s r. o., and Radio West Plzeň s. r. o., who confirmed that they were part of the EVROPA 2 program network (the Council became acquainted with this fact at its 22nd meeting), and broadcasters Radio Krumlov, s. r. o., RADIO PUBLIKUM spol. s r. o., Rádio Bohemia, spol. s r. o., RADIO STATION BRNO, spol. s r. o., DELTA MEDIA BROADCASTING s. r. o., RADIO MORAVA s. r. o., Radio ProTon s. r. o., who stated that they were not part of any program network (see submissions Ref. No. 7652/08-7657/08 and 7662/08); however, at the same time, in its submission, the broadcaster Radio Bohemia s. r. o. mentions program networks Kiss Delta and Kiss Jižní Čechy (for frequencies allocated to the broadcaster in Kutná Hora, Liberec and Pardubice, or Mezivraty), which is nonsense. However, it is likely that the terms program network and frequency network were confused in this case. We also have information on involvement in program networks from a majority of broadcasters from the MEDIA BOHEMIA group (replies are missing from ČESKOMORAVSKÉ RÁDIO s. r. o. and FRANTIŠEK VOSTÁL s. r. o.).

LICENSE CONDITIONS

From the viewpoint of the state of the license conditions and their use for the purposes of the license proceedings and amendments to a license (set of technical parameters and geographical area of broadcasting), particularly from the viewpoint of reviewability required by the courts, it should be noted that these conditions are rather general and allow, amongst other things, the creation of program networks consisting of licensed channels that originally substantially differed in terms of their structure and music format.

The basic program specification is the only parameter that cannot be changed. However, this specification is only very general, it can be stated that a music station with a certain information or news component is involved. Such a specification then creates no obstacle for the establishment of networks.

On the contrary, other parameters may change and, if the license conditions of the individual channels begin to become similar, this is usually evidence of their potential cooperation within a single broadcasting network (see, e.g., unification of the conditions on the frequencies used for the Rádio Blaník program network). Better comparison and evaluation would be highly facilitated particularly by more accurate specification of the music format, e.g. in terms of the period and genres involved, rather than by general proclamations (music for demanding listeners, etc.). From the viewpoint of the evaluation criteria pursuant to Section 17 (1), there is also sufficient space for license conditions concerning broadcasting for minorities.

Such a more accurate definition of the license conditions will not be possible for a majority of existing channels; however, it could be considered within new license proceedings, including proceedings that could take place based on cessation of the previously extended licenses.

TERMINATION OF PREVIOUSLY EXTENDED LICENSES

The previously extended licenses of a major group of broadcasters will expire in the coming years. Particularly with respect to those channels whose licenses expire in 2011 and 2012, it is necessary to consider the dates of the license proceedings so that the sets of technical parameters are not left without a program without a due reason. This will relate to the following broadcasters (according to the year of expiry):

2011 – Radio West Plzeň, s. r. o.; CITY MULTIMEDIA s. r. o. (CITY 93.7 FM); V plus P s. r. o.;

2012 – RADIO LIFE s. r. o.; Rádio Student, s. r. o.; Radio Černá Hora II. s. r. o.; JUKE BOX, spol. s r. o.; BBC Radiocom (Praha) s. r. o.;

2013 – COUNTRY RADIO s. r. o. (the Prague license); RADIO STATION BRNO, spol. s r. o.; DELTA MEDIA BROADCASTING s. r. o. (both licenses); EVROPA 2, spol. s r. o. (version for Moravia and Eastern Bohemia); Frekvence 1, a. s.; ORION s. r. o.; EN-DAXI, s. r. o.; CITY MULTIMEDIA s. r. o. (Rádio BLANÍK); První rozhlasová s. r. o.; Rádio Podještědí, s. r. o.; LONDA spol. s r. o.; NONSTOP s. r. o. (RÁDIO KROKODÝL Brno); AZ Media a. s.; HELLAX spol. s r. o.; RADIO - FRANCE - INTERNATIONALE, S.N.;

2014 – DELTA MEDIA BROADCASTING s. r. o. (both licenses); Radio ProTon s. r. o.; Radio Dragon s. r. o.; RADIO FAKTOR s. r. o.; RADIO RELAX s. r. o.; Radiospol s. r. o.;

2015 – 4S PRODUCTION, a. s.; RKR s. r. o.; Agentura TRS spol. s r. o.; Radio Krumlov, s. r. o.; BROADCAST MEDIA, s. r. o. (license Prague); RADIO PUBLIKUM spol. s r. o.; Radio Bohemia, spol. s r. o.; RADIO MORAVA s. r. o.; EVROPA 2, spol. s r. o. (the basic channel, EVROPA 2); Rádio DUHA spol. s r. o.; RADIO BONTON a. s.; RADIO CRYSTAL s. r. o.; FRANTIŠEK VOSTÁL s. r. o.; RADIO MOST společnost s ručením omezeným; RADIO METUJE, s. r. o.; RADIO FM Plus Plzeň s.r.o; North Music s. r. o (Fajn North Music); ESA-rádio, s. r. o.; M+M spol. s r. o.; Definitely s. r. o.; ELDORADIO s. r. o.; Rádio Venkow, spol. s r. o.; ČESKOMORAVSKÉ RÁDIO s. r. o.; Rádio Děčín s. r. o.; MEDIA Party spol. s r. o.; Radio Šumava, s. r. o.; Rádio Tep a. s.; Faktor, Ladislav, JUDr.; Rádio Profil s. r. o.; Rádio Pálava s. r. o.; Foretník Pavel, RNDr.; Josef Hejl RADIO RUBI; RADIO PROGLAS s. r. o. (both licenses); RTV Cheb, k. s.; PS KŘÍDLA, s. r. o.; Radio Contact Liberec spol. s r. o.;

CALCULATION OF COVERAGE

The coverage is calculated by the information division of the administrative department of the Council using the RadioLab computer system, which is being developed and supplied by CRC Data, spol. s r.o. This specialized software is also utilized, e.g. by the Czech Telecommunication Office, Czech Metrological Institute (CMI) and some radio and television broadcasters. This is a modular system encompassing a number of specialized parts that are intended for specific practical applications, such as the database of transmitters, calculation of coverage diagrams, detailed map documents, calculation of single-frequency networks, calculation of interference, etc.

All calculations for the Council are performed using the RadioLab system, applying the currently valid recommendations of the ITU. In radio broadcasting, this is a methodology agreed at the ITU Geneva international conference in 1984 (GE84). For television broadcasting, the methodologies are based on the ITU international conferences in Stockholm 1961 (analogue television), Chester 1997 (DVB-T) and newly also Geneva 2006 (DVB-T). As regards calculation methods, in addition to other methods, common and recommended methods are used, such as ITU 370 (with the CA correction), ITU P.1546, RDK-2 (improved ITU 370 method).

Radio and television bands are used by a number of transmitters both in the Czech Republic and abroad, which mutually affect their range and thus have a direct effect on the resulting coverage of the population by uninterrupted signal. Without regard to interference, the calculation of the population represents only a theoretical potential, which is never attained in practice; therefore it is usually not carried out; however, even such a task can be performed. The calculations employ a module entitled "Evaluation of Coverage" within the RadioLab computer system, always using signal diagrams including interference.

Unfortunately, the database of foreign radio transmitters, which the Council has at its disposal, does not reflect the actual state of affairs. It should be noted in this relation that the performed calculations can be distorted to a various degree by the fact that not all coordinated foreign transmitters enter the calculation. Consequently, the calculated value of coverage will be higher than the actual value.

In September 2007, the Technical and Testing Institute of Telecommunications and Posts in Prague (TESTCOM, currently the Czech Metrological Institute) drew up, at request of the CTO, a comprehensive revision of the FM radio networks, which aimed at optimization of the

frequencies of Czech Radio in relation to the statutory requirements on coverage of the population of the Czech Republic by the individual channels (i.e. 95 % of the territory). The Council for Radio and Television Broadcasting received the summary report on this study, through the Czech Telecommunication Office, in a letter dated October 22, 2007, Ref. No. 8733.

A meeting of the representatives of the CTO and Czech Radio with the Council took place on January 15, 2008; the main item on the agenda of this meeting was a discussion of the potential for use of a new method for determining the intensity of the electromagnetic field and the resulting derived coverage of the population by the signal of radio broadcasting in the FM band.

The CTO, Czech Radio and the Council agree with the planning method pursuant to GE84 with the use of the 6 dB margin, as stated in the Comprehensive Revision of the Radio FM Network, the Summary Report (Testcom task No. 2-360-4354/07, Prague, September 2007), as a theoretical basis for the method of determining the intensity of the electromagnetic field and the resulting derived coverage of the population by the signal of radio broadcasting in the FM band.

The participants propose to push for an amendment to Act No. 127/2005 Coll., on electronic communications, as amended, which would lie in supplementing Section 112 (4) by the following sentence: "The method of determining the territory covered by the signal of radio broadcasting in the frequency modulation (FM) band, the method of determining the intensity of the electromagnetic field and the derived coverage of the population by the signal of radio broadcasting in the FM band shall be stipulated by an implementing regulation."

The representatives of the Council proposed that, until the above-mentioned amendment to the Electronic Communications Act is adopted, the Council should adopt a resolution on this methodology as the Council's internal regulation.

At its 2nd meeting on January 22 and 23, 2008, with effect from September 1, 2008, the Council adopted a new methodology for determining the intensity of the electromagnetic field and the resulting derived coverage of the population by the signal of radio broadcasting in the FM band on the basis of the GE84 planning method with the use of the 6 dB margin, as stated in the Comprehensive Revision of the Radio FM Network, the Summary Report (Testcom task No. 2-360-4354/07, Prague, September 2007).

The reason for the adoption of the new methodology lay, *inter alia*, in an attempt to express the coverage as much as possible in conformity with the actual possibilities of reception by the listeners themselves. In relation to the determined coverage, a further objective would be to evaluate the number of inhabitants with uninterfered reception. The current methodology pursuant to GE84 did not sufficiently satisfy these requirements, as it was intended for international frequency planning and it thus did not provide adequate results for the needs of the Council.

Recently, when a need arose to deal with the duties of Czech Radio stipulated by Act No. 481/1991 Coll. and when it became necessary to deal with the methodology of determining the intensity of the electromagnetic field and the resulting derived coverage of the population by the signal of radio broadcasting in the FM band, an opportunity was therefore created for modifying the methodology serving for determination of coverage. The Summary Report within the Comprehensive Revision of the Radio FM Networks is based practically on a single modification of a parameter compared to the GE84 planning method. This modification corresponds to the value of the 6 dB margin, expressing the reduction in the protection between the individual FM transmitters. This value is expressed in dB and describes the degree of acceptable interference.

The value of 6 dB was utilized in all cases as this value is safe – verified by the general practice and the experience of the CMI. The minimum intensity of the electromagnetic field is 54 dB μ V/m (identically as in GE84).

The new methodology of calculation of the coverage was therefore adopted in order to fulfil the criterion of the possibility of reception of the channels of Czech Radio by 95 % of the population of the Czech Republic. Thanks to this methodology, it is no longer necessary to allocate coordinated frequencies to Czech Radio at the expense of private broadcasters, who mostly initiated these coordination exercises. However, this could simultaneously result in a situation where certain operators would exceed, within the framework of their interconnection by personnel and programs, the permitted level of 70 % of the population of the Czech Republic being able to receive the programs. Consequently, it was also necessary to recalculate the coverage by licensed broadcasters according to the new methodology.

As regards the resolution adopted at the 19th meeting, which is based on the calculation drawn up by the Office, involving certain obsolete data, it must be emphasized that the adoption of this resolution did not result in initiation of any administrative proceedings against licensed radio broadcasters and, therefore, it does not require any administrative decision or any other consequences. In order to revoke it, the Council resolved as follows at its 23rd meeting in 2008:

“The Council announces that, given the newly ascertained facts regarding the calculation of coverage, it will request, within cooperation of administrative authorities within the meaning of Section 6 (4) of the Broadcasting Act, Section 112 of Act No. 127/2005 Coll., on electronic communications, and Section 8 (2) of Act No. 500/2004 Coll., the Code of Administrative Procedure, that the Czech Telecommunication Office perform a control calculation of coverage based on up-to-date data. Following the control calculation drawn up by the Czech Telecommunication Office, it will communicate the result to all the broadcasters affected by the Council’s resolution concerning calculation of coverage adopted at the 19th meeting. Depending on the result of the control calculation, if appropriate, the Council will set a new date from which it will apply the new methodology in its decision-making; the Council’s resolution and its invitation to the broadcasters of the 19th meeting are hereby amended in this sense.”

ISSUE OF DISCONNECTION WITH RESPECT TO NATIONWIDE RADIO LICENSES (FREKVENCE 1 + IMPULS)

The Broadcasting Act does not provide for the term “disconnected frequency” and, therefore, it also does not deal with the duties related to the possible disconnection of a program/channel. On the other hand, this need not be an obstacle for its implementation. Indeed, it holds from the viewpoint of the broadcasters that “what is not prohibited by the law, is permitted”. With respect to this principle, it must be acknowledged that the Act does not explicitly prohibit the disconnection of frequencies. Within his license application, the broadcaster proposes his own license conditions (see Section 16 (4)), subject to a single exception stipulated in Section 18 (4), corresponding to the time frame and geographical area of broadcasting, which are stipulated by the Council based on agreement with the party to the proceedings in conformity with the statement of the CTO.

However, the same Act stipulates the tasks of the Council, where, *inter alia*, pursuant to Section 5 (a), the Council supervises over compliance with legal regulations in the area of radio and

television broadcasting and over the conditions stipulated in the decisions on granting the license or in the decisions on registration and, pursuant to Section 5 (g), it monitors the contents of radio and television broadcasting.

The basic terms are defined in Section 2 (1) (a). For the purposes of the Act, radio and television broadcasting means the primary dissemination of original radio and television programs (i.e. stations and channels) and services directly related to the programs, including teletext in analogue television broadcasting, intended for reception by the public in the form of protected or unprotected access conditional on the system through an electronic communications network; pursuant to Section 2 (1) (j), television channel or radio station means an intentional temporal arrangement of individual radio or television programs and other parts of broadcasting and, in radio broadcasting, also the flow of program elements within a single channel or station; and pursuant to Section 2 (l), a program means a consistent, comprehensive and temporally delimited part of radio or television broadcasting; in radio broadcasting, a program also means a program element not providing any substantial information on the possibility of disconnection (it is questionable what is meant by the expression “within a single channel or station”; the broadcasters argue that the program should be consistent, comprehensive and temporally delimited and in conformity with the license conditions; however, the contents are not defined in any further detail either in the law or in the mandatory license conditions). Further provisions are stipulated in Section 12 (1): Licenses are granted by the Council in proceedings on granting a license (hereinafter “license proceedings”). A license provides the broadcaster with authorization for radio and television broadcasting and for dissemination of teletext in analogue television broadcasting within the scope and under the conditions stipulated by the Act and other legal regulations; pursuant to Section 18 (4) (e), a decision on granting a license shall also contain the basic program specification and further program conditions, including specification as to whether this is a full-format program; pursuant to Section 21 (1) (d), a licensed broadcaster is obliged to apply to the Council for written consent to a change in these facts specified in the license application (amendment to the license conditions), which facts in no way specify the contents of the license conditions, with a single exception, i.e. the basic program specification, meaning the specification of the genres prevailing in the overall program structure (cf. Section 2 (1) (i)). The Act does not further specify other license conditions (other program conditions).

Case-law related to this issue is important for decision-making of the Council on the possibility of disconnection. The Council can base its considerations on judgment of the Municipal Court in Prague in case 9 Ca 420/2007 (action against Council decision File No. 2007/665/hak/FRE, Ref. No. hak/8807/07), where a ruling was made on an action against the Council’s decision in the case of disconnected frequencies of the FREKVENCE 1 station. The following arguments put forth by the Municipal Court are relevant for the discussion of this issue:

“[The Court] ... agrees with the Defendant that, in the given case, the consideration on amendment to the license from the viewpoint of the program structure is connected with the need for maintaining a fundamental phenomenon of a previously granted license, which consists in the nationwide character of the Plaintiff’s radio broadcasting, not only from the territorial viewpoint, but also from the program viewpoint. This means that amendment to the license conditions consisting in regional disconnection is possible within the meaning of the granted license provided that the program change consisting essentially in limitation of the nationwide single program – a newscast – for the benefit of regional broadcasting does not interfere with the current purpose of

the license – i.e. a nationwide character of the given broadcasting, as the Council acknowledged this fact as a fundamental condition for granting the license in 1998. The Plaintiff's application thus could be successful if the requirements on nationwide broadcasting were maintained, i.e. subject to maintenance of the licensed local broadcasting as a regional element of the composition of nationwide broadcasting required in the original license proceedings. The Plaintiff obtained a license for nationwide broadcasting and is thus obliged to operate this licensed broadcasting, i.e. broadcasting consisting pursuant to Section 2 (1) (j) and (l) of Act No. 231/2001 Coll. of programs and elements of programs according to the submitted license application, in a territory where at least 70 % of the population of the Czech Republic can receive it within the specified scope. This predetermines not only the territorial, but also the program contents of reception of broadcasting, which cannot be changed during the term of the license, unless a change applied for by the Plaintiff were effected. Therefore, the Court did not agree with the allegation connected with the creation of the contents of the program...”

The mentioned judgment thus indicates the possibility of disconnection of a program, provided that this does not fundamentally change the character of broadcasting from the viewpoint of the geographical area (i.e. in case of disconnection within a nationwide program, its nationwide character must be maintained in the sense of the possibility of covering 70 % of the population of the Czech Republic; similarly, in case of a regional program, the disconnected section must have a regional character, i.e. it must cover from 1 % to 70 % of the population of the Czech Republic, based on the last census).

Given the fact that broadcasting on disconnected frequencies takes place both in the Czech Republic and elsewhere in the world and, in substance, constitutes a common practice (or the impossibility of disconnection is stipulated directly in the law – Germany), it appears not to be purposeful to prevent it altogether. It should be noted that use of local information is in conformity with the EU concept of greater media emphasis on information that is directly concerned with the place of permanent or temporary residence of the listeners. However, the fact that the technical means allocated for a single license are used to broadcast a different (disconnected) program at a certain time is so important that it must be requested that the possibility of disconnection be reflected in a license condition. Indeed, if the Council is to supervise the maintenance and development of plurality of information, it must be able to actually regulate this area.

In terms of the Council's approach to disconnection of newscasts by nationwide radio broadcasters, the Council states that the existence of license conditions for disconnection is essential. This standpoint is also supported by the fact that the broadcaster, Frekvence 1, a.s., had actually first applied for this change within administrative proceedings on amendment to the license conditions (in accordance with the Council's decision-making practice) and only when its application had been disallowed, the broadcaster challenged this procedure (the possibility of disconnection on the basis of the license conditions).

The main objective of disconnection should lie in the provision of local information (instead of general information, i.e. information that is often less substantial for the inhabitants of the given locality). Disconnection of local advertising is then an absolutely different question, particularly given the fact that the sale of advertising time satisfies particularly the interests of the operators themselves, rather than the general interest of the listeners; in other words, plurality of the program offer and information can hardly be supported by the possibility of disconnection of local advertising for nationwide programs.

SUPERVISION BY THE COUNCIL OVER MAINTENANCE AND DEVELOPMENT OF PLURALITY IN BROADCASTING

One of the statutory tasks of the Council is to supervise the maintenance and development of plurality of the program offer and information in radio and television broadcasting.

The attainment of the same objective – *inter alia* – is sought by those provisions of the Act that stipulate the limits for geographical area of broadcasting of local, regional and nationwide programs.

The Council is not competent to assess as to whether and to what degree these limits are correctly stipulated by the law; as a body applying the law, it is authorized to supervise compliance with these limits.

However, it should be noted that, on the one hand, while the Council is required by the law to provide for compliance with the Broadcasting Act (i.e. also these limits), on the other hand, the Act does not provide it with almost any legal instruments that it could use to affect the compliance with these limits before they are actually exceeded.

This issue is related particularly to analogue radio broadcasting by licensed broadcasters.

The statutory limit for coverage by a single station can be exceeded in this area, in principle, in two ways: by lodging an application to license proceedings and by applying for a change in the set of technical parameters.

Nothing prevents an existing broadcaster (whose program covers a territory approaching the statutory limit) from applying to any license proceedings announced for a territory that is not yet covered by this broadcaster (or is covered partly) with the current station.

If the application lodged by this broadcaster complies with the requisites stipulated by the law, the Council is not entitled to reject the application on the grounds that the potential granting of the license would result in excess of the coverage limit. Thus, if the broadcaster (licensed applicant) is successful in the proceedings, the license is granted in absolute conformity with the law.

When making a decision *in rem* with respect to a license (in most cases, the proceedings involve several parties – applicants), the Council is not allowed not to grant the license with reference to these grounds. While it is true, on the one hand, that there is no legal entitlement to granting a license in normal license proceedings, on the other hand, the Council is limited in its decision-making by an exhaustive list of criteria stipulated by the law with respect to its discretion. The law does not set out any criterion related to the potential risk of excess of the limit of coverage of the territory by a single station and, therefore, the Council is not authorized to take this fact into account (if it did so, this would result in cancellation of the license decision by the Municipal Court in Prague based on an action lodged by a party to the proceedings, which would undoubtedly and justifiably object that the Council took account of facts other than those that must be taken into account pursuant to the law).

If the Council – being aware that the limit of coverage will be exceeded – intended to reject the license application lodged by the applicant, it would not be able to do it for the mentioned reason (as this is not included amongst the statutory criteria for granting licenses), but it would rather be forced to evade the law and rely in the rejection of the license application on some

other grounds, i.e. “invent” the reason that the applicant does not fulfil some of the criteria that the Council is authorized and, at the same time, obliged to evaluate in the license proceedings. However, in its current composition, the Council does not refer to this procedure.

An existing broadcaster (whose program covers a territory approaching the statutory limit) lodges an application for a change in the set of technical parameters – e.g. by allocation of a new frequency, increase in the output of the transmitter, etc. This application – if it complies with the statutory requisites and unless a change is involved that would result in non-granting of the license on the basis of a public hearing (where, however, only program aspects are discussed), the Council is required by the law to satisfy the application. This is a statutory duty, where the Council has no discretion.

Thus, the Council has again no possibility of preventing the excess.

It follows from the above-stated facts that, if the broadcaster uses legal means to obtain new licenses for the same station, or to attain changes in the parameters within an existing license or licenses, without having duly taken into consideration the limits for coverage of the territory, the Council has no legal instrument to prevent such potential excess of the limit. This leads to an absurd situation where an administrative authority has, as the first and sole option and, at the same time, as the last and extreme means of regulation, the duty to revoke a license from a broadcaster whose program exceeds the statutory limit of coverage, in which case the Council also has no discretion, as this is a duty, rather than power, of the Council. It can be successfully doubted as to whether the above-described situation was actually the intention of the legislator, notwithstanding the fact that it also does not follow from the Act which license is to be revoked if the limit of coverage is exceeded as a consequence of the fact that a broadcaster has several licenses. The Broadcasting Act also does contain procedural provisions on this subject.

In this relation, the Council considers it suitable to note that the above-described unfavourable state of affairs could result, in addition to the reasons set forth above, from the creation of “program networks”, where joint composition of programs or their retransmission could also lead to extension of a single channel or station beyond the statutory limit of coverage. In this relation, the Council is not entrusted with any statutory competence; pursuant to the law, the creation of networks is absolutely independent of the activities of the administrative authority.

RESOLUTION OF THE CONSTITUTIONAL COURT IN RELATION TO THE BROADCASTING ACT

RESOLUTION OF THE CONSTITUTIONAL COURT ON THE PROPOSAL OF THE MUNICIPAL COURT IN PRAGUE FOR CANCELLING SECTION 17 (4) OF THE BROADCASTING ACT

By its decision of May 17, 2007, File No. 2006/1042/mal/TMB, the Council dismissed the application of T-Mobile Czech Republic a. s. for a license for broadcasting in the DVB-H standard (the “TV v kapse” channel (*Pocket TV*)) and, simultaneously, in other operative parts of the same decision, granted two licenses for broadcasting in the DVB-H standard with the term until May 31, 2007 to RADIO PROGLAS s. r. o. (Radio Proglas station) and Stanice O, a. s. (Óčko station).

T-Mobile Czech Republic a.s. challenged the Council's decision by an action within administrative justice, where it claimed that it had fulfilled all the criteria required for granting a license pursuant to Section 17 (2) of the Broadcasting Act, but the sole reason for dismissing its application lay in variance with Section 17 (4) of the Broadcasting Act, because T-Mobile Czech Republic a.s. was an entrepreneur providing for an electronic communications network within the meaning of the latter provision and, therefore, it could not be granted a license for radio or television broadcasting disseminated only digitally via transmitters. T-Mobile Czech Republic a.s. was convinced that Section 17 (4) of the Broadcasting Act was at variance with the constitutional order of the Czech Republic and incompatible with the law of the European Communities and, therefore, should not be applied. In the action, the company claimed particularly infringement, or inappropriate limitation, of the right to freely operate a business (Art. 26 (1) and (2) and Art. 4 (4) of the Charter of Fundamental Rights and Freedoms) and indirect infringement of the right to freedom of speech and dissemination of information (Art. 17 of the Charter of Fundamental Rights and Freedoms and Art. 10 (1) of the Convention for the Protection of Human Rights and Fundamental Freedoms), and also variance with the Authorisation Directive, i.e. Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services, adopted with the aim of liberalizing the provision of services in the area of electronic communications, which, in the opinion of T-Mobile Czech Republic a.s. directly presupposes that the entity providing for the relevant electronic communications network can be simultaneously an entity disseminating the transmitted contents (i.e. be the holder of a license for the contents).

In discussing the case, the Municipal Court in Prague came to the conclusion that Section 17 (4) of the Broadcasting Act, which was to be applied in dealing with the case, was at variance with the constitutional order of the Czech Republic (it referred particularly to Art. 26 (1) of the Charter of Fundamental Rights and Freedoms, which provides for freedom of operating a business or other economic activity in the chosen field) and with the law of the European Communities. Therefore, the Municipal Court in Prague suspended the proceedings on the action and, pursuant to Art. 95 (2) of the Constitution of the Czech Republic and Section 64 (3) of the Act on the Constitutional Court, it lodged a proposal for cancelling Section 17 (4) of the Broadcasting Act. The Municipal Court stated that Art. 26 (1) of the Charter of Fundamental Rights and Freedoms envisaged the possibility of limiting the performance of certain occupations or activities by a law, without specifying the purpose of the limitation, which, however, had to pass the proportionality test (appropriateness in broader sense). The contested provision of the Broadcasting Act was to prevent that an entrepreneur providing for an electronic communications network favour himself in disseminating radio and television broadcasting if it were to become the holder of a license for digital broadcasting. However, in the opinion of the Municipal Court in Prague, this objective could have been achieved in a less intrusive way than through an absolute prohibition of operating a business in the given area by all entities specified in the provision. In addition to breach of the principle of necessity, the Municipal Court considered that the contested provision of the Broadcasting Act also breached the principle of proportionality in a narrower sense, as it prevented access to business by a number of entities, without this limitation being necessary and adequately justifiable by general interest. This statutory limitation applied to all entrepreneurs providing for electronic communications networks without respect to the type of the transmitted information, i.e. also to entrepreneurs providing for a network that cannot even be used for dissemination of television and radio broadcasting (T-Mobile Czech Republic a.s. operated an electronic communications

network for a mobile telephone network on frequencies outside the range of television broadcasting).

By its resolution of December 2, 2008, File No. Pl. ÚS 12/08, the Constitutional Court of the Czech Republic rejected the proposal of the Municipal Court in Prague for cancelling Section 17 (4) of the Broadcasting Act. In the reasoning, the Constitutional Court emphasized particularly the responsibility of the common courts for due application of the law of the European Communities. Where a question of variance of a provision of national law with the law of the European Communities arises before a common court, the common court is not authorized to refer to the Constitutional Court with a proposal for cancelling the provision on the grounds of its variance with the law of the European Communities and, instead, it has to make a decision on its non-application itself (the argument refers to case-law of the Court of Justice of the European Communities, particularly its judgment in *Amministrazione delle Finanze dello Stato v Simmenthal SpA* of March 9, 1978). However, in the relevant case, the core of the reasons stated in the proposal of the Municipal Court lay in variance of the contested provision of the Broadcasting Act with the provisions of the constitutional order of the Czech Republic, specifically Art. 26 (1) of the Charter of Fundamental Rights and Freedoms. The Constitutional Court would leave it entirely up to the common court whether it would primarily deal with variance of the statutory provision that it was to apply with the law of the European Communities or whether it would concentrate on variance with the constitutional order of the Czech Republic. Nevertheless, in case of variance of the contested provision of the Broadcasting Act with the law of the European Communities, the situation in hand would not be identical with variance with the constitutional order of the Czech Republic; non-application of the contested provision of the Broadcasting Act by the Municipal Court in Prague would potentially be based on variance with the provisions of the law of the European Communities, which had an entirely different character. Since the Municipal Court in Prague stated, in the proposal for cancelling of Section 17 (4) of the Broadcasting Act, that the contested provision of the Act was also at variance with the law of the European Communities, it was obliged, pursuant to the Constitutional Court, to provide for full effect of this law itself also by not applying the contested provision based on its own consideration. However, in that case, the Municipal Court in Prague does not fulfil the requirements on *locus standi* for lodging the proposal, as a common court may lodge a proposal for cancelling of a law, or its individual provisions, only if the law is to be applied in resolving a pending dispute.

T-Mobile Czech Republic a.s. was an entrepreneur providing for an electronic communications network within the meaning of the Act on Electronic Communications and, therefore, the Council could not decide in administrative proceedings otherwise than that the application of the company is to be rejected, as it was bound, as an administrative authority, in its decision-making, by the law. Thus, the answer to the legal question of variance of Section 17 (4) of the Broadcasting Act with the constitutional order of the Czech Republic or with the law of the European Communities is thus again up to the Municipal Court in Prague. A decision in this case can be expected in 2009.

**RESOLUTION OF THE CONSTITUTIONAL COURT ON A PROPOSAL LODGED BY CET 21
SPOL. S R.O. FOR CANCELLING SECTION 32 (1) (G) OF THE BROADCASTING ACT**

In 2008, the Constitutional Court also made a decision on constitutional complaints lodged by CET 21 spol. s r.o. , aimed against judgements of the Supreme Administrative Court and claiming

particularly that Section 32 (1) (g) of the Broadcasting Act and the related provision on a penalty, i.e. Section 60 (3) (d) of the Broadcasting Act be cancelled.

By its decision of December 21, 2005, File No. Rpo/145/05, the Council imposed on the broadcaster, CET 21 spol. s r.o. , a fine of CZK 1,000,000 for violation of Section 32 (1) (g) of the Broadcasting Act, which it committed by broadcasting the Big Brother program on September 30, 2005 from 5:15 p.m. to 6:10 p.m. on the Nova channel.

CET 21 spol. s r. o. challenged the Council's decision by an action within administrative justice; the Municipal Court in Prague dismissed the action. The company lodged a cassation complaint against the judgment; the Supreme Administrative Court found the complaint unjustified and, therefore, dismissed it.

In the constitutional complaint, CET 21 spol. s r.o. claims, in particular, that the Supreme Administrative Court did not sufficiently deal with the allegation that the ascertained facts did not have the required "quality" for them to correspond to the elements of an administrative offence pursuant to Section 60 (3) (d) of the Broadcasting Act. The complainant perceived the infringement on the right guaranteed by Art. 39 of the Charter of Fundamental Rights and Freedoms in incorrect interpretation of Section 59 (1) and (3) of the Broadcasting Act. The Supreme Administrative Court incorrectly concluded that the complainant had already been notified several times of violation of the law and that it had been set a deadline for remedy in the sense of the above-mentioned provisions. Furthermore, the complainant refers to the amendment to the Broadcasting Act that introduced Section 32 (1) (j) providing for the duties of the broadcasters not to broadcast programs containing vulgar and swear words except for the conditions stipulated by the law. The complainant concludes that the Big Brother series was protected by the constitutionally protected right to the freedom of expression and the right to seek and disseminate information, which may be limited by a law in the case of measures essential in a democratic society for protecting the rights and freedoms of others, the security of the State, public security, public health, and morality. In the opinion of the complainant, these requirements had not been fulfilled.

In its resolution of December 18, 2008, Ref. No. I ÚS 2262/08 (see the annex on a CD), the Constitutional Court stated, in particular, that the substance of the constitutional complaint lay in a dispute on the manner of interpretation and subsequent application of the relevant provisions of the Broadcasting Act, i.e. simple law, by the common courts. This kind of a complaint put the Constitutional Court in the position of another instance within the system of common justice. The Constitutional Court emphasized that, in the past, it had been forced to make the necessary corrections to legal opinions in cases of administrative justice, which corrections would have otherwise been made by the Supreme Administrative Court. However, the need for this exceptional substitution ceased to exist upon actual commencement of activities of the Supreme Administrative Court. The Constitutional Court respected the basic division of powers and stated that it was not primarily authorized to interpret legislation in the area of public administration, but rather *ex constitutione* to protect the rights and freedoms guaranteed by the constitutional order. On the contrary, the Supreme Administrative Court was the authority that was competent to interpret simple law in the area of public administration and unification of case-law of administrative courts. In the context of its existing case-law, the Constitutional Court considered itself to be authorized to assess interpretation of simple law in the area of public administration put forth by the Supreme Administrative Court, with reference to the principle of self-restraint and the principle of self-limitation, only if application of simple law in the given specific case by the Supreme Administrative Court would result from

interpretation that would extremely deviate from the principles guaranteed by Title Five of the Charter and, consequently, it could be qualified as application of law resulting in infringement on fundamental rights and freedoms.

However, the Constitutional Court did not ascertain any such defect in the given case. It came to the conclusion that the duly and exhaustively reasoned conclusion of the Supreme Administrative Court on the legal procedure of the Council in imposing a fine pursuant to Section 60 (3) (d) of the Broadcasting Act had to be considered to be an element of independent judicial decision-making. The reasoning of the Supreme Administrative Court did not deviate from the constitutional limits.

The Constitutional Court came to the conclusion that both the Council and the common courts had interpreted and applied the relevant provisions of the Broadcasting Act within the limits of the law in a manner conforming to the Constitution.

The Constitutional Court stated that the alleged infringement on the right to freedom of speech and dissemination of information was clearly in accordance with the requirements following from the Charter and the Convention for the Protection of Human Rights and Fundamental Freedoms. The Court had found no reason to deviate from its conclusions expressed in its decisions on constitutional complaints lodged by the complainant on the same factual and legal basis, and since it had not found any infringement on the complainant's fundamental rights following from the constitutional laws or international treaties binding on the Czech Republic, it dismissed the complaint as clearly unjustified.

Simultaneously, the Constitutional Court dismissed the proposal for cancelling Section 32 (1) (g) of the Broadcasting Act, as this was an accessory proposal which shared the fate of the dismissed constitutional complaint.

THE COUNCIL AS THE OBJECT OF COMPLAINT LODGED WITH THE OMBUDSMAN

1/ further dealing with the complaint against the "I, Muslim" report within the Infiltration program of October 7, 2007 on the CT2 channel.

As a consequence of a Report of the Ombudsman on the results of investigation into a complaint against the procedure of the Council in administrative proceedings pursued against Czech Television, the Council provided the Islamic Foundation in Prague with a copy of the expert statements that had served as a basis for its decision in the case.

2/ complaint lodged by Mr. Jaroslav Hájek on January 8, 2008

Mr. Hájek requested that "Czech Television be forced to provide folklore brass-band music with the space and broadcasting times that it lawfully deserved". Mr. Hájek was not satisfied with the Council's response that Act No. 231/2001 Coll. did not allow the Council to order the broadcasting of any specific program and complained to the Ombudsman. On the basis of an instigation of the Ombudsman, the Council began to deal in detail with the competence of the Council and of the Czech Television Council in terms of the program composition of the public-service television, particularly Section 31 (4) of the Broadcasting Act. A detailed analysis of entire Section 31 of the Broadcasting Act was commissioned on the basis of this instigation.

C. INFORMATION ON COMPLIANCE WITH LEGAL REGULATIONS IN THE AREA OF RADIO AND TELEVISION BROADCASTING AND ON IMPOSED PENALTIES

[SECTION 6 (1) (C) OF THE BROADCASTING ACT]

Pursuant to Section 5 (a) of the Broadcasting Act, the Council supervises over compliance with the legal regulations in the area of radio and television broadcasting and over the conditions stipulated in the decisions on granting the license or in the decisions on registration. Definition of the competence and powers of the Council is important in this respect. The Council, as a State administrative body, may carry out only acts that are expressly permitted by the law, within the statutory limits and in lawful manners.

INFORMATION ON COMPLIANCE WITH LEGAL REGULATIONS IN THE AREA OF RADIO AND TELEVISION BROADCASTING AND ON IMPOSED PENALTIES

Section 5 of the Broadcasting Act stipulates the competence of the Council for Radio and Television Broadcasting. Subparagraph a) imposes on the Council the duty to supervise over compliance with the legal regulations in the area of radio and television broadcasting and the conditions stipulated in a decision on granting a license or a decision on registration, while subparagraph f) stipulates the Council's competence to impose penalties pursuant to the Broadcasting Act.

The penalties that may be imposed by the Council in relation to violation of any statutory provisions are defined in Part Seven of the Broadcasting Act. These include, in particular, pecuniary penalties – fines; however, in case of especially serious violations of the Act, the Council is authorized to suspend retransmission, revoke a license or cancel registration.

However, in case of the first violation of a majority of statutory provisions, a penalty must be preceded by a remedial measure, consisting in a notice of violation of the law, including specification of a deadline for remedy, whose duration corresponds to the character of the breached duty. The Council is authorized to issue a notice of violation of the law directly to the broadcaster, without having to pursue administrative proceedings against the broadcaster. Nevertheless, in some rare cases, the Council initiates administrative proceedings against the broadcaster also if the broadcaster has not previously breached the given statutory provision and it is thus clear that the proceedings may only be closed by issuing a notice. The Council opts for this procedure in cases where the breach of the statutory provision is not unambiguous and where it wants to eliminate the risk of incorrect notice of violation of the law. In that case, it prefers to pursue apparently superfluous administrative proceedings; however, disputed facts are clarified in its course. If the assumption of violation of the statutory provision is rebutted, the Council discontinues the administrative proceedings. If the Council issues a notice of violation of the Act to the broadcaster, an action pursuant to the Code of Administrative Justice is not permissible against this legal act.

A notice of violation of the law, as a remedial measure, cannot be employed in breach of the following duties of the broadcaster: the duty to ensure that the broadcast programs do not incite to hatred based on race, sex, religion, nationality or association with a certain group of population; the duty to ensure that the broadcast programs do not contain subliminal messages; the duty not to include in the broadcasting programs that could seriously endanger physical, mental or moral development of children and youth, particularly by involving pornography and gross gratuitous violence.

In case of breach of duties where the Act does not allow for issuing a notice and in cases of repeated breach (i.e. in cases where the broadcaster had been delivered a notice of violation of a statutory provision before the broadcaster committed repeated violation) of other duties stipulated by the law or the license conditions, the Council shall impose a fine. When imposing a fine and determining its amount, the Council shall take into consideration the nature of the broadcast program; the position of the broadcaster and operator of retransmission in the media market with respect to their responsibility towards the viewers in the area of provision of information, education, culture and entertainment; gravity of the breach and degree of fault; the extent, type and scope of the defective broadcasting; and the amount of any financial benefit. With respect to a majority of breaches, the Act stipulates the minimum and maximum limits of the penalty; there are a total of six ranges of penalties.

The Council may resolve to suspend retransmission in cases where it has revealed repeated material breach of any statutory provisions regulating the contents of the programs and basic duties of broadcasters and retransmission operators.

The Council shall decide on cancelling registration if the broadcaster has stated false data in the application or if he has repeatedly breached certain statutory provisions on the contents of programs and the basic duties of broadcasters and retransmission operators and a fine has already been imposed for such breach. The Council may decide to cancel registration if the operator of retransmission has seriously breached the Broadcasting Act or an international treaty binding on the Czech Republic, or if bankruptcy has been declared in relation to his assets.

A license is withdrawn in cases where the broadcaster obtained the license on the basis of false data or if he has breached the duty to provide for plurality of information in broadcasting, if he has repeatedly breached certain duties imposed in the provision stipulating the basic duties of broadcasters and retransmission operators in an especially serious manner and a fine has already been repeatedly imposed on him for such breach or if he has repeatedly breached the license conditions in an especially serious manner.

In the following cases, the Council may withdraw the license: the broadcaster has failed to commence broadcasting within 360 days, for television broadcasting, or within 180 days, for radio broadcasting, after the date of legal force of the decision on granting a license; the broadcaster has failed to broadcast for a total period of 30 days during a calendar year after commencement of broadcasting (except for the period when this was prevented by justified technical obstacles); or bankruptcy has been declared in relation to his assets.

A fine may be imposed within one year of the day when the Council learnt of the breach of duties, but at the latest two years from the day when the breach of duties occurred. Administrative proceedings based on a request for provision of a recording of the broadcast program pursuant to the Broadcasting Act may be commenced at the latest within three months of the date when such recording was delivered to the Council.

In the proceedings, the Council acts pursuant to the provisions of the Code of Administrative Procedure, except for the provisions on appellate proceedings, proceedings on remonstrance, review proceedings and renewal of proceedings and a new decision. The appellate element is, in a certain way, replaced by an action lodged with the court. Section 66 of the Broadcasting Act provides an exhaustive list of the types of decisions against which such action may be lodged. These decisions include decisions on imposing a fine. If a party to the proceedings disagrees with the decision of the Council on imposing a fine, it may lodge an action with the Municipal Court in Prague for cancelling such a decision. The action has a suspensory effect and the court must make a decision thereon within 90 days.

In addition to the Broadcasting Act, the Council also performs supervisory and, consequently, punitive activity imposed thereon by Section 7 (1) (a) of the Advertising Act. Pursuant to the cited provision, the Council is the competent body for supervision over compliance with the Advertising Act with respect to advertisements published in radio and television broadcasting and with respect to sponsoring within radio and television broadcasting.

The Advertising Act does not provide for a notice of violation of the law and, therefore, in relation to the ascertained cases of violation of the Act, the Council imposes only pecuniary penalties – fines – on the broadcasters.

A specific feature of the Advertising Act consists in the fact that the parties to the proceedings include not only broadcasters, i.e. in the terminology of the Act, the disseminators of advertisements, but also the clients and authors of the advertisements. The Advertising Act specifically defines when and in what cases the disseminator, client and author bear liability for individual cases of violation of the Act and, at the same time, stipulates the maximum amount of a fine. When determining the amount of the fine, the Council takes into consideration the gravity of the administrative tort and, in particular, the manner of committing thereof and its consequences, and the circumstances, under which it was committed. The Council is obliged to commence proceedings for violation of the Advertising Act within two years of the date when it learnt thereof and at the latest within 5 years of the violation; otherwise, the liability of the legal person expires.

Furthermore, the Advertising Act allows the Council to order termination of broadcasting of an advertisement that is at variance with the law and set an appropriate deadline to this effect. It may also prohibit unlawful comparative advertising or advertising that is an unfair business practice, or suspend the commencement of dissemination of such advertising.

A party may defend against a decision of the Council on imposing a penalty or prohibition of broadcasting advertising by lodging an action with the Municipal Court in Prague.

OVERVIEW OF ADMINISTRATIVE PROCEEDINGS INITIATED *EX OFFICIO* AND PURSUED IN THE YEAR 2008

The following tables provide a comprehensive overview of the administrative proceedings pursued in 2008 in relation to violations of the Broadcasting Act and the Advertising Act and also of notices of violation of the law issued without administrative proceedings.

The list includes information on all administrative proceedings pursued during the year 2008, i.e. those that were initiated in 2008 and that are anticipated to be closed in 2009, those that were initiated in 2008 and also closed in the same year (by imposing a penalty, discontinuation or issuing a notice) and also those that continued in the year 2008 and were initiated in the previous years.

More than two hundred administrative proceedings, specifically 218, were joined in 2008 in accordance with Section 140 of the Code of Administrative Procedure and have been further recorded under new file numbers. An administrative authority joins proceedings either at request of a party or *ex officio* by a resolution if the proceedings concerned relate to the same subject or are otherwise mutually substantively related or involve the same parties, unless this is prevented by the nature of the case, purpose of the proceedings or protection of the rights or justified interests of the parties.

The summary figures indicate a marked interannual increase in the number of administrative proceedings commenced *ex officio*. While 470 proceedings were commenced in 2007, in 2008 this number equalled 724, which corresponds to a 55% increase. This increase is related particularly to the new concept of control monitoring of television programs, which began to be employed from the beginning of 2008.

The higher number of administrative proceedings pursued also results in a marked increase in the number of imposed pecuniary penalties – fines. During the year 2008, the Council imposed 226 fines, while in the previous year, it imposed only 100 fines. Thus, this increase is more than two-fold. On the contrary, the number of notices markedly decreased, to 138, from 237 issued by the Council in the preceding year. These changes – reduction in the number of notices and, in contrast, more fines imposed – are logically interlinked. A number of broadcasters had already been notified of violation of numerous statutory provisions and, therefore, they were imposed fines upon their repeated violation.

More than two thirds of the fines were imposed in 2008 for violation of a statutory provision dealing with broadcasting of advertisements, teleshopping and sponsored programs, both pursuant to the Advertising Act and pursuant to the Broadcasting Act. Violation of Section 48 (4) (a) of the Broadcasting Act, which requires that advertising and teleshopping be distinguishable and clearly separated from other parts of the program, was penalized most often. A majority of penalties imposed for violation of this provision were related to broadcasting of sponsor's messages that had the features of advertising and, therefore, were evaluated by the Council as an advertisement which was not duly separated in broadcasting, or to broadcasting of sponsor's messages that informed about sponsorship of advertising jingles. Such sponsor's messages are also classified by the Council as unseparated advertising as an advertising jingle is not a program within the meaning of the Act and, therefore, cannot be sponsored.

The second most frequently penalized violation of the law in the area of advertising consists in breach of the statutory prohibition of advertisements attributing to food supplements the property of preventing, treating or curing human diseases or referring to such properties (Section 5d (1) (d) of the Advertising Act and Section 5d (d) of the Advertising Act, in the wording by January 25, 2006). This violation was committed most often by the clients and authors of advertisements for food supplements.

The table overview indicates the individual statutory provisions that were most frequently breached in the relevant period, with the ensuing notices and penalties. In addition to the above-mentioned violations of the statutory provisions providing for broadcasting of advertisements

and sponsored programs, this includes particularly, similar to previous years, violation of Section 32 (1) (g) of the Broadcasting Act, i.e. the duty not to broadcast programs and trailers that could endanger physical, mental or moral development of children and youth from 6:00 a.m. to 10:00 p.m. In 2008, the broadcasters were notified of breach of this duty in 11 cases and, in 25 cases, they were imposed a fine, where the most frequently penalized broadcaster was FTV Prima, spol. s r. o., and its Prima televize channel.

In this relation, mention should also be made of the relatively frequent breach of Section 32 (1) (j) of the Broadcasting Act, which stipulates the duty not to include in broadcasting programs and advertisements containing vulgar and swear words, except for artistic works where this is necessary from the viewpoint of the context, where such works may be broadcast only at a time from 10:00 p.m. to 6:00 a.m. of the next day. Violation of this statutory duty is not connected with any pecuniary penalty; the broadcaster may only be notified of its breach. This occurred in 10 cases in 2008.

A high share amongst administrative proceedings traditionally belongs to proceedings pursued in relation to the potential violation of provisions that require the broadcasters to provide objective and balanced information (Section 31 (2) and (3) of the Broadcasting Act). Broadcasters were notified of breach of these duties in 7 cases and a fine was imposed in 10 cases in 2008. However, a relatively great many proceedings were terminated by discontinuation, as the violation was not proven within the administrative proceedings.

Compared to the previous years, a marked share belonged in 2008 to administrative proceedings pursued for the potential violation of Section 32 (1) (f) of the Broadcasting Act, i.e. the duty not to show, without justification, dying people or people exposed to intense physical or mental suffering, doing so in a manner detrimental to human dignity. A majority of these proceedings were initiated in relation to newscasts and political programs, which repeatedly and redundantly showed a boy tortured by his own mother in Kuřim. The broadcasters used the pictures of the suffering child as a pictorial, illustrative background for the report, whereby they degraded the human dignity of the tortured boy in an absolutely exemplary manner. The shots were found in broadcasting of all three nationwide broadcasters (Czech Television, CET 21 spol. s r.o., FTV Prima, spol. s r.o.) and, therefore, a number of administrative proceedings were initiated against these broadcasters. Subsequently, the Council resolved, in accordance with Section 140 of the Code of Administrative Procedure, to join the proceedings related to the same broadcaster and imposed fines on all three broadcasters.

The Council also penalizes other violations of the law, which are unrelated to the contents of the broadcast programs. Penalties are most frequently imposed for violation of statutory provisions that require licensed broadcasters and retransmission operators to notify the Council in advance of certain changes, particularly in the company of the broadcaster or operator, or to apply for a prior consent to certain changes in the facts stated in the license application.

The Council also revoked the license in three cases in 2008. In one case, the reason lay in the fact that the broadcaster had failed to commence broadcasting within the deadline stipulated by the law from granting the license (Section 63 (2) (a) of the Broadcasting Act). In the second case, the reason lay in the fact that the broadcaster failed to broadcast for a period exceeding 30 days during a calendar year (Section 63 (2) (b) of the Broadcasting Act). In the third case, this occurred as a consequence of adjudication of bankruptcy against the broadcaster (Section 63 (2) (c) of the Broadcasting Act).

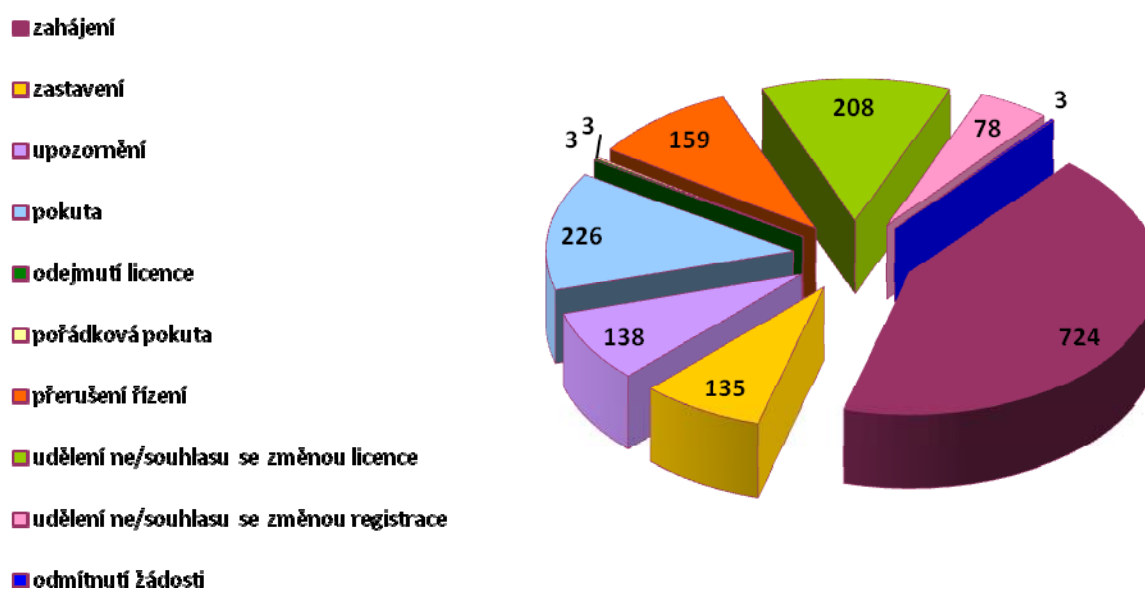
ACTS OF THE COUNCIL IN ADMINISTRATIVE PROCEEDINGS

The following overview shows what resolutions the Council adopted in 2008 in the framework of all the administrative proceedings, i.e. not only in administrative proceedings initiated *ex officio*, but also those that were initiated at request.

In administrative proceedings initiated at request, the Council issued a total of 286 decisions *in rem*, in 58 cases it discontinued the administrative proceedings, e.g. for the reason of failure to pay the administrative fee, and, three cases, it rejected the application as the applicant had failed to remedy defects of the application.

In administrative proceedings initiated at request, the Council adopted a total of 159 resolutions, whereby the given proceedings were discontinued. In a majority of cases, the reason lay in the Council's application to the CTO for coordination of frequencies.

CHART 1 - OVERVIEW OF RESOLUTIONS OF THE COUNCIL IN ALL ADMINISTRATIVE PROCEEDINGS IN 2008



initiated

discontinued

notice

fine

license revoked

procedural fine

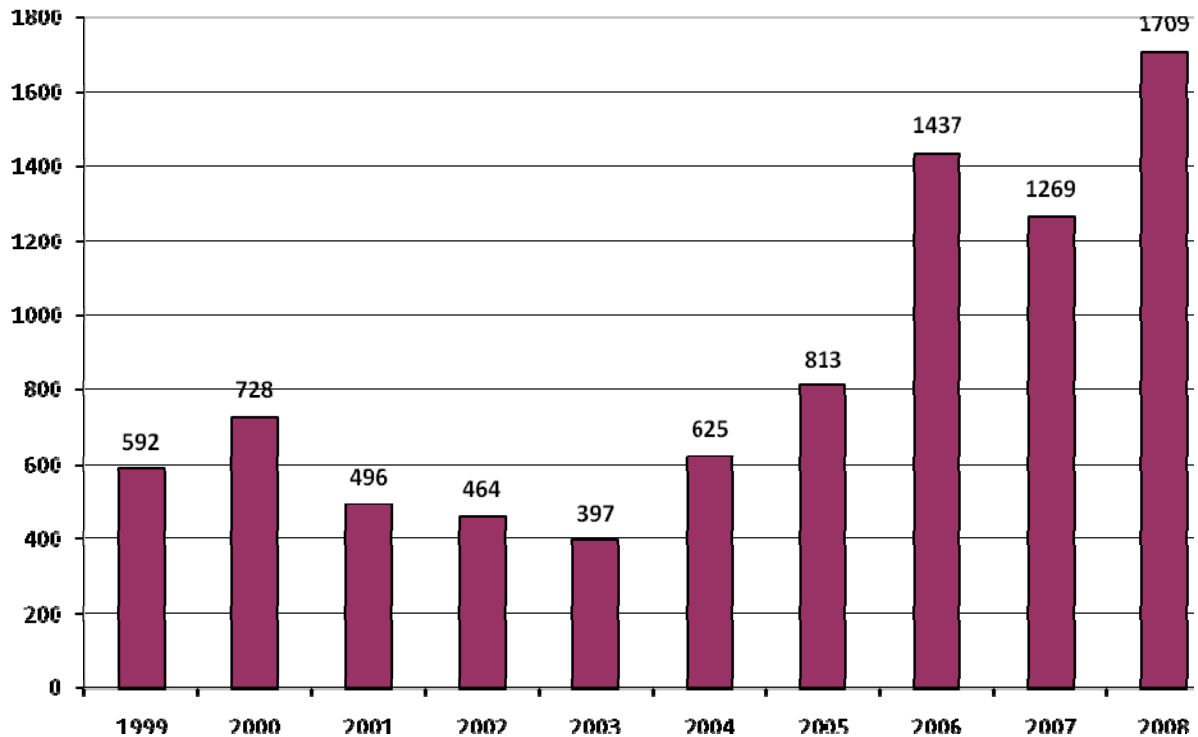
proceedings suspended

consent to amendment to the license (not) granted

consent to a change in registration (not) granted

application rejected

CHART 2 - OVERVIEW OF THE NUMBER OF RESOLUTIONS ADOPTED BY THE COUNCIL IN ALL ADMINISTRATIVE PROCEEDINGS IN 1999 TO 2008



SURVEYS OF LITIGATIONS PURSUED IN 2008 AT THE MUNICIPAL COURT IN PRAGUE OR AT THE SUPREME ADMINISTRATIVE COURT

The legislature provided the Council with the power to impose penalties only under the Broadcasting Act and the Advertising Act. In accordance with Section 66 of the Broadcasting Act and Section 8c (2) of the Advertising Act, a court action may be lodged against a decision of the Council pursuant to the Code of Administrative Justice. It follows that litigation cannot be initiated at the instigation of the Council, i.e. the Council cannot be a plaintiff in the case. Thus, the Council is always in the position of the sued administrative authority. This specification is substantial for understanding of the following overview of litigations as the court's ruling "action is dismissed" is always a ruling upholding the Council's decision, meaning that the Council managed to defend its decision also within judicial review. We also consider rulings where the Municipal Court reduced the amount of the fine or waived the fine to be confirmation of the Council's decision (i.e. success of the Council in the litigation). This opinion of the Council is based on the fact that, in that case, the court confirmed its legal opinion, as well as the correctness of its procedure in administrative proceedings. However, in the given case, with respect to the facts and particularly with respect to its powers, the court found that the fine had been imposed in an inappropriate amount and therefore reduced it or (only in proceedings pursued pursuant to the Advertising Act) waived the fine. The Council also considers it success in litigation when the action is rejected. While this ruling indicates that the case was *de facto* not

discussed, in its consequence, the Council's decision also becomes enforceable, besides it being final.

Where the court cancels the Council's decision and returns the case for further proceedings, the administrative proceedings again return to the procedural phase prior to the decision *in rem*. It is thus possible to supplement the basic documents for the proceedings and invite the parties to provide new statements and adduce new evidence. Pursuant to Section 78 of the Code of Administrative Justice, the Council is then bound by the legal opinion expressed by the court in the cancelling judgment.

A cassation complaint may be lodged against the court decision with the Supreme Administrative Court. If the Supreme Administrative Court quashes the decision of the first instance court, the latter is bound by the legal opinion expressed by the Supreme Administrative Court in its judgment.

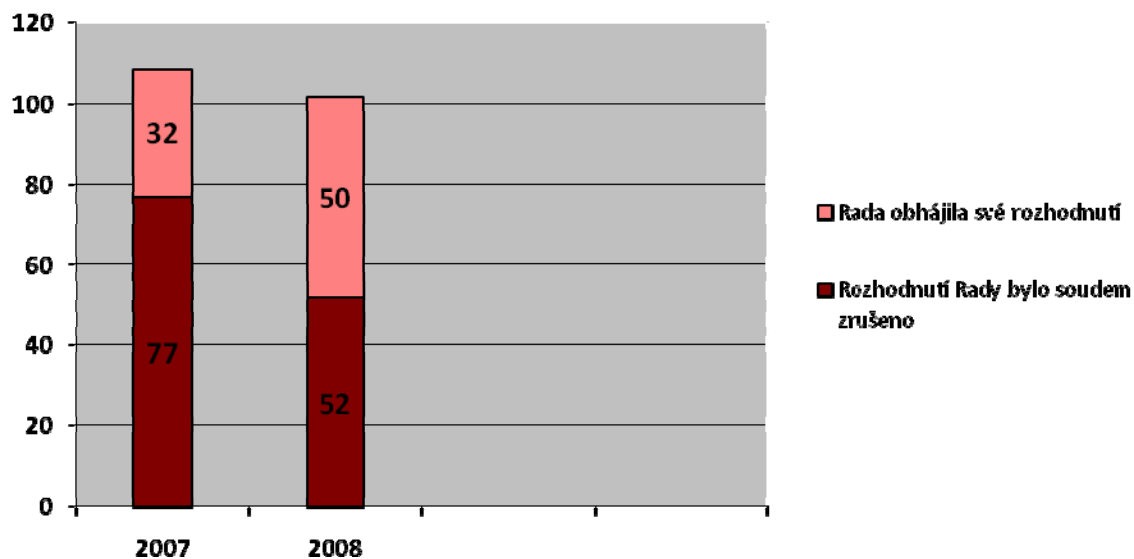
In the part dealing with litigations where the Council is in the position of the defendant, it is also suitable to mention the aspect of legal force of its decisions. Pursuant to the Broadcasting Act and the Advertising Act, it is possible to lodge an action against the Council's decision pursuant to the Code of Administrative Justice. This regulation indicates that an action can be lodged only against a final decision (in legal force). In very short and simple terms, this means that the Council's decision comes into legal force (becomes final) on the date of its delivery to the last of the parties to the administrative proceedings (usually there is only one party).

A similar situation occurs in case of delivery of a judgment of the Municipal Court in Prague. A cassation complaint may also be lodged only against a judgment that is in legal force (is final) and, also in this case, the court ruling comes into legal force on the date of its delivery to the last (usually the second) party to the litigation.

A total of approx. 270 litigations were pending in 2008. This number is only indicative, as the Municipal Court in Prague assigns the case a new file number when the dispute is referred **back** for further proceedings by the Supreme Administrative Court. This could result in a slight disproportion between the number of challenged administrative decisions and the number of pending litigations recorded according to the file numbers.

In 2008, the Municipal Court in Prague issued a total of 102 judgments, of which the action was dismissed in a total of 44 cases. In 52 cases, the Council's decision was cancelled by the ruling of the Municipal Court. In the remaining cases, the proceedings were discontinued or the action rejected.

CHART 3 - JUDGMENTS OF THE MUNICIPAL COURT IN PRAGUE DELIVERED TO THE COUNCIL (NUMBER OF CASES)

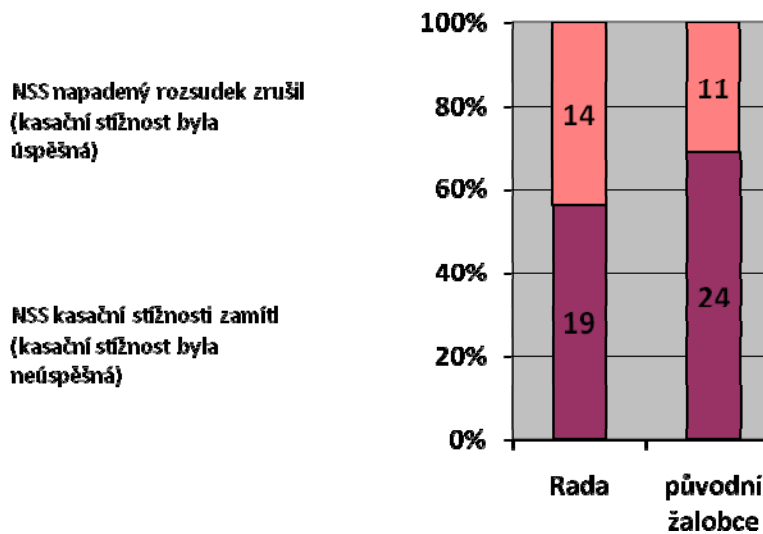


The Council defended its decision

The Council's decision was cancelled by the court

A total of 67 cassation complaints were lodged, of which 39 by the Council. In 2008, the Supreme Administrative Court rendered a total of 67 judgments. In 33 cases, it ruled on a cassation complaint lodged by the Council, where it satisfied the complaint in 14 cases. In 35 cases, it ruled on a cassation complaint lodged by the plaintiff, where it dismissed the complaint in 24 cases.

CHART 4 - JUDGMENTS OF THE SUPREME ADMINISTRATIVE COURT DELIVERED TO THE COUNCIL IN 2008 (NUMBER OF CASES)



The SAC quashed the contested judgment (cassation complaint successful)

The SAC dismissed the cassation complaint (cassation complaint unsuccessful)

Council original plaintiff

These data indicate that, in terms of the percentage rate, the cassation complaints lodged by the Council with the Supreme Administrative Court were more successful than the cassation complaints lodged by the plaintiffs.

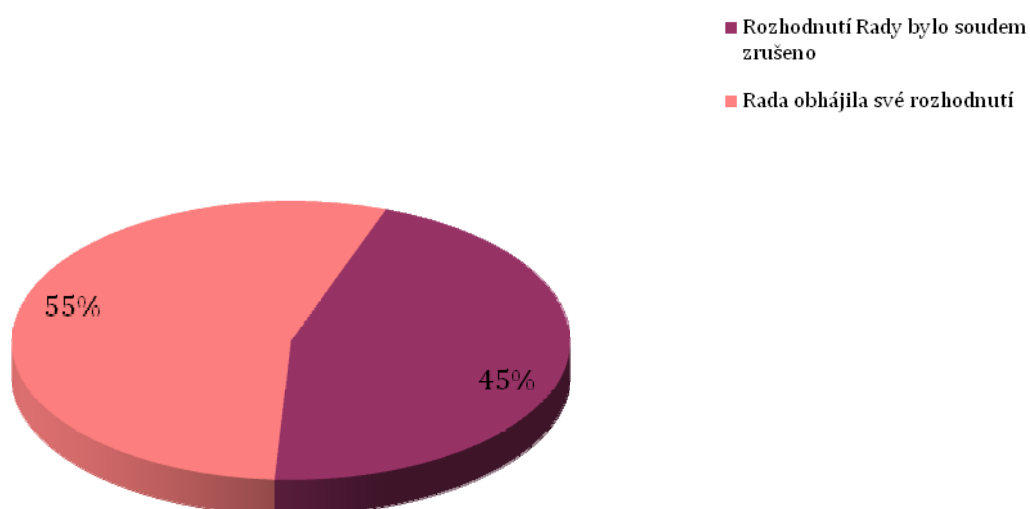
A total of 86 litigations were finally closed in 2008. The Council managed to defend a total of 47 of its decisions. The following table is based on the classification used in the annex "Litigations".

TABLE 8 - OVERVIEW OF LITIGATIONS CLOSED IN 2008

	Disputes closed	Council decisions defended	Number of decisions cancelled with specification of further procedure in the case			
			The Council discontinued the proceedings	The Council imposed a new fine/new decision in the case	The Council issued a notice in the case	The Council will make a decision in the case in 2009
Administrative issues	11	10		1		

Contents of broadcasting pursuant to the Broadcasting Act	52	30	11	6	1	4
Contents of broadcasting pursuant to the Advertising Act	23	7		3		13
Total	86	47	11	10	1	17

CHART 5 - DEFENDED COUNCIL DECISIONS IN 2008 (IN %)



The Council's decision was cancelled by the court

The Council defended its decision

D. INFORMATION ON THE RESULTS OF CONTROL OF COMPLIANCE WITH THE DUTIES STIPULATED IN THIS ACT AND THE CONDITIONS IMPOSED ON BROADCASTERS AND RETRANSMISSION OPERATORS

[SECTION 6 (1) (D) OF THE BROADCASTING ACT]

RESULTS OF CONTROL OF TELEVISION BROADCASTING

Control of compliance with the legal regulations and license conditions by broadcasters is one of the basic duties of the Council, which follows from Section 5 of the Broadcasting Act.

From the beginning of 2008, the Council adopted, through its Office, or the Television Division within the Analytical Department, a new concept of its control monitoring activities so as to comply, as much as possible, with the requirements of the law for control of all types of television broadcasting with the current personnel.

It divided the monitoring activities into two groups:

Monitoring based on samples – control of selected programs in determined time periods

Monitoring based on instigations – control of a specific program or section of broadcasting

MONITORING BASED ON SAMPLES

The Council has developed a system of regular control monitoring of all types of broadcasting, where this system reflects the technical means of dissemination of the program and, in turn, the viewer coverage by individual channels.

Nationwide channels, i.e. CT1, CT2, Nova and Prima televize, as channels with the highest viewer coverage, are most frequently subject to control. Several-hour sections of broadcasting are usually chosen for the needs of monitoring, where the selection can be entirely random, but mostly the choice is intentional to a substantial degree. Those sections are chosen that cover programs problematic in the long term, or the selection is based on the primarily specified analytical goal – e.g. the afternoon broadcasting time (protection of children without adult supervision), evening programs (objectivity and balance of newscasts and political programs), etc. Continuous 24-hour recordings of the programs as acquired by the Office of the Council are used for monitoring of the channels CT1, CT2, Nova and Prima televize.

In this context, it must be emphasized that all nationwide television channels are subject to continuous monitoring of broadcasting of advertisements, teleshopping and sponsor's messages. Every month, an analyst specializing in and assigned exclusively for evaluation of advertising presents to the Council proposals for commencement of administrative proceedings in relation to the ascertained violations of the Act by broadcasting of advertising spots, teleshopping spots and sponsor's messages (*inter alia*: excess of the daily and hourly limits for broadcasting of advertisements; breach of the rules for inclusion of advertisements in programs; violation of the statutory provisions on sponsoring of programs; violation of the statutory provisions on the

contents of advertisements; violation of the statutory provisions on the specific requirements on advertisements for medicaments and food supplements; occurrence of unfair practices in advertising, etc.).

Regional and local programs disseminated by terrestrial transmitters constitute another monitored group. For the purposes of monitoring these programs, based on its statutory powers following from Section 32 (1) (l) of the Broadcasting Act, the Council requests recordings of programs directly from the broadcasters. Monitoring and evaluation is usually focused on longer time periods (2 to 14 days) so as to enable evaluation, not only of the fulfilment of the statutory duties, but also of compliance with the license conditions, where the license conditions, or broadcasting schemes, are often stipulated for weekly broadcasting cycles. Time periods for monitoring purposes are chosen either at random or intentionally. A typical intentionally selected period is a pre-election period which has traditionally been problematic from the viewpoint of compliance with the statutory provisions.

The third monitored group encompasses programs disseminated via satellites. The recordings for the monitoring of programs in this group are both obtained by the Council's own recording and requested from the broadcasters. Longer time periods are monitored – at least several hours, but, in some cases, up to several days – so that the monitoring has the highest possible information value from the viewpoint of both compliance with the law and compliance with the license conditions. The selection of the channel that will be monitored is based on a number of factors: when the channel was last analytically checked; what viewer rating it has; whether problematic aspects can be anticipated in its programs (e.g. based on an increasing frequency of viewers' complaints related to a specific program); whether any penalty has been imposed in the past (checking whether remedy has been ensured); whether changes have occurred in the channel that it would be suitable to check (e.g. amendment to the program license conditions), etc.

Another group comprises channels disseminated through cable systems. These programs are subject to relatively less frequent control or, rather, the controls are as frequent as allowed by the human resources of the Office. Given the fact that there are dozens cable operators in this country, where a number of them broadcast a several channels (usually infochannels), with the current personnel capacity, it is not possible to achieve even an annual frequency of internal analytical controls of all these channels. In 2008, in addition to random monitoring of these programs, two system control events took place with respect to a selected group of cable operators. The first aimed at checking programs broadcast by those broadcasters in whose programs most shortcomings were found during the last control from the viewpoint of fulfilment of the requirements of the law and the license conditions. The second evaluated two-week broadcasting in regional cities prior to regional and Senate elections. (This report does not include the complete results of the latter control event, as analyses of some of the monitored channels will be submitted to the Council only at the beginning of 2009.)

Since 2008, the concept of regular monitoring has also included digitally disseminated channels (DVB-T). For example, the Z1 channel, which commenced its broadcasting in June, has already undergone control monitoring twice.

MONITORING BASED ON INSTIGATIONS

At the beginning of 2008, the Council launched an entirely new system of discussing instigations from viewers containing complaints against specific programs. At each meeting, the Council is presented with a "summary of submissions", i.e. an overview of all complaints that the Council has received since the last meeting. With each complaint, the Analytical Department of the Office encloses a brief analysis of the program to which the complaint relates and also proposals for further procedure in the given case, i.e. initiation of administrative proceedings if there is a justified suspicion that the law or the license conditions have been violated, reference of the instigation to other authorities, or conceiving a reply to the complainant in which (s)he will be informed that no violation of the law has been ascertained.

If administrative proceedings are commenced on the basis of an instigation, the relevant notice is promptly drawn up and delivered to the party and, only during the proceedings, the analyst draws up a detailed analysis of the program. The Council becomes acquainted with the conclusions of the analyses within a material that contains the statement of the party and analysis drawn up by a lawyer and that then forms a basis for the Council's decision-making on imposing a penalty or, as appropriate, discontinuing the proceedings.

CONTROL MONITORING IN 2008

The activities of the Council in the area of control of programs were substantially extended in 2008, which was enabled by a change in the concept of work of the Analytical Department. The overall number of analyses of television programs in 2008 equalled 883, which represents a significant increase compared to 2007, when this number equalled 351. Nevertheless, the comparison is only indicative, because the numbers for 2008 are based on a new system of work, which puts emphasis on monitoring of longer continual sections of broadcasting; consequently, the analysis is based on simultaneous control of several programs. The change in the system of work has led, not only to an increase in the number of analysis, but also, and this is substantial, to an increased quality of the outputs of the control activities in general, as they focus on covering an entire range of channels with respect to the technical means of their dissemination and the total viewer coverage in various time periods, in parts of a week or day.

Similar to the previous years, in 2008, the most frequently ascertained violations of the law (apart from violations related to advertising, which are described below) included violations of Section 31 (2) and (3) of the Broadcasting Act, which requires the broadcasters to provide objective and balanced information, of Section 32 (1) (g) of the Broadcasting Act, which prohibits the broadcasters from broadcasting programs that could endanger physical, mental or moral development of children and youth from 6:00 a.m. to 10:00 p.m., and of Section 32 (1) (j) of the Broadcasting Act, which stipulates the duty not to include in broadcasting programs containing vulgar and swear words, except for artistic works where this is necessary from the viewpoint of the context, where such works may be broadcast only at a time from 10:00 p.m. to 6:00 a.m. of the next day. For violation of the last mentioned provision, i.e. prohibition of broadcasting programs containing vulgar and swear words, in a vast majority of cases, the Council notified the broadcasters of violation of the law, without initiating administrative proceedings, as this violation is not connected, by the law, with any pecuniary penalty and the broadcaster may thus only be notified of the violation with a deadline for remedy.

A sharp increase in the number of detected violations was related in 2008 to Section 32 (1) (e) and (f) of the Broadcasting Act, which imposes the duty not to show, without justification, dying

people or people exposed to intense physical or mental suffering, doing so in a manner detrimental to human dignity. A majority of these cases related to repeated, purposeless and unscrupulous broadcasting of pictures of a tortured boy in Kuřim, by all three nationwide broadcasters (Czech Television, CET 21 spol. s r.o., FTV Prima, spol. s r.o.).

The monitoring of the third series of the VyVolení reality show was completed during 2008 - it related roughly to the second half of this series, specifically from mid October to December 1, 2007, when the entire series ended. A total of 107 programs within the VyVolení - Noví hrdinové series broadcast on 49 broadcasting days were analyzed in 2008. The monitoring resulted in a total of 104 commenced administrative proceedings, with prevailing administrative proceedings related to problematic advertising elements that were encompassed in the contents of the programs - in legal terms, this involved potential violation of Section 48 (4) (a) of the Broadcasting Act (in 71 cases) or Section 48 (1) (g) of the Broadcasting Act (in 25 cases). Other shortcomings were ascertained to a lesser degree, mostly with respect to various provisions of Section 32 of the Broadcasting Act, which provides for the basic duties of the broadcasters.

MONITORING OF ADVERTISING SPOTS, TEleshopping SPOTS AND SPONSOR'S MESSAGES

Of all analyses performed in 2008, in a total number of 883, approximately one third were analyses of advertising, i.e. advertisements, teleshopping spots and sponsor's messages. The CT24, CT4 Sport, Ocko and Nova Cinema channels were included, in 2008, in the system of continuous control of advertising, in addition to CT1, CT2, Nova and Prima televize, whose advertising broadcasting had already been monitored for several years. Analyses of advertising elements led, in 2008, to initiation of administrative proceedings in almost three hundred cases. Most cases related to possible violation of Section 48 (4) (a) of the Broadcasting Act, i.e. violation of the provision that prohibits broadcasting of unseparated advertisements. A vast majority of administrative proceedings pursued for violation of this provision was related to broadcasting of sponsor's messages that had the features of advertising and, therefore, were evaluated by the Council as an advertisement which was not duly separated in advertising, or to broadcasting of sponsor's messages that informed about sponsorship of advertising jingles. Such sponsor's messages are also classified by the Council as unseparated advertising as an advertising jingle is not a program within the meaning of the Act and, therefore, cannot be sponsored.

A total of 4,790 advertising spots, 999 teleshopping spots and 2,884 sponsor's messages were controlled in 2008.

It is interesting to note that the total number of controlled premiere advertising spots in 2008 is only negligibly lower than in the previous year (4,866 in 2007), although a statutory provision fundamentally limiting advertising in the channels of the statutory broadcaster, Czech Television, came into force on January 1, 2008. On the contrary, it can be stated that this limitation was reflected in an increase in the number of sponsored programs, and in the increased number of premiere sponsor's messages (2,442 in 2007), which is caused by the fact that companies that wanted to communicate with viewers of the public-service television had a limited opportunity to do so by means of advertising and, therefore, they directed their activities to the area of sponsoring.

A complete overview of all analyses drawn up in 2008, including information as to whether the analysis led to initiation of administrative proceedings or issuing a notice of violation of the law,

or whether the results of the analysis indicated that the programs had been broadcast in conformity with the law, is contained on a CD attached to the 2008 Annual Report.

TABLE 9 – MONITORING OF ADVERTISING

2008	advertising spots	teleshopping	sponsor's messages
January	345	30	148
February	402	48	216
March	482	50	291
April	431	71	244
May	505	52	273
June	399	59	299
July	191	71	108
August	259	41	137
September	413	123	294
October	531	86	354
November	495	142	308
December	337	226	212
Total			

THE TERM "PORNOGRAPHY" IN TELEVISION BROADCASTING

The year 2008 was, to a certain degree, a milestone from the viewpoint of broadcasting programs with erotic content. The first Czech broadcaster, PK 62, a.s., commenced broadcasting of a licensed channel focused on erotics.

In relation to the control monitoring of this channel and also other channels focused on erotics which are registered in the Czech Republic for broadcasting via cable systems, the Council drew up a legal analysis of the subject of broadcasting erotic programs, particularly with respect to their potential overlapping with pornography, which is prohibited by the law. In Section 32 (1) (e), the Broadcasting Act requires that broadcasters do not include, in broadcasting, programs that could seriously affect physical, mental or moral development of children and youth, particularly by containing pornography and gross gratuitous violence. This provision provides the Council, *inter alia*, with the competence and, simultaneously, the obligation to supervise broadcasters whether their broadcasting does not correspond to the wording of this provision.

At the same time, the Council sent a letter to the Ministry of Culture of the Czech Republic, where it suggested that the latter initiate amendment to the law that would stipulate a legal definition of the term pornography in relation to broadcasting.

The issue of pornography, or supervision of its possible occurrence in broadcasting, is very complex from the legal viewpoint, as the Czech legislation does not define the term pornography. The Council attempted to define and delimit this term within a legal analysis, which it discussed at its 8th meeting held on April 22, 2008 and which became a basis for its supervisory activity in evaluation of the erotic contents.

It follows from this analysis that pornography is an indefinite legal term with variable content in time, whose interpretation depends on the specific social conditions. A definition of pornography as such is very difficult and its formulation depends, *inter alia*, on the public attitude. Pornography can be conceived as realistic depiction of sexual intercourse where the camera attempts to record the act as openly and in as much detail as possible. Pornography can also be defined as material with all-exposing open depiction of human sexuality, oriented only at sex itself, its mechanics, without the aspect of feelings, love and tenderness, with the objective of inciting arousal and sexual satisfaction.

CHANNEL LEO TV

In the middle of 2008, the Council requested a recording of a section of broadcasting of the Leo TV channel from the broadcaster, PK 62, a.s., and it performed control monitoring from the viewpoint of compliance with all the statutory provisions and the license conditions. Based on the performed analysis of this channel, the Council resolved to initiate administrative proceedings against the broadcaster, PK 62, a. s., for possible violation of Section 32 (1) (e) of the Broadcasting Act, because it followed from the results of the analysis that the Leo Night Live! program broadcast on the Leo TV channel in the monitored period contained pornography. Pornography was considered to be involved in contents where a person or persons were depicted in unambiguously sexually motivated conduct, including arousing exposure of sex organs or their vicinity, with the primary goal of causing sexual arousal. The occurrence of pornography was very wide in the evaluated broadcasting of the Leo TV channel – the elements of pornography were found in a major part of the monitored program with erotic presentations (apart from the inputs of the announcers, jingles and graphic transitions).

Administrative proceedings in this case will be terminated during the first months of 2009.

BLUE HUSTLER AND HUSTLER TV CHANNELS

Further channels that were monitored by the Council in 2008 for potential variance with Section 32 (1) (e) of the Broadcasting Act, which prohibits programs that could seriously affect physical, mental or moral development of children and youth, particularly by containing pornography and gross gratuitous violence, included Blue Hustler and Hustler TV, which were disseminated in the Czech Republic on the basis of registration in the English language version. For the purposes of monitoring of these channels, the Office of the Council acquired its own recording from the UPC Direct offer during a randomly selected period.

Based on the performed analysis of the Blue Hustler channel, the Council ascertained that this was a channel focused on erotics which was not in breach of any statutory provision.

On the contrary, in accordance with the conclusions of the analysis of the Hustler TV program, which was presented as hardcore adult entertainment, it concluded that the program had to be

considered pornographic. The channel frequently depicts, in an absolutely open way, sexual practices where both male and female sex organs are clearly visible in coitus and in other sexual practices, also in close-ups. These scenes depict male and female sex organs when aroused (including close-ups), ejaculation, penetration of both the vagina and anus by various articles, mutual oral sex, licking of penises, sucking of nipples, swallowing of semen, arousing inside the vagina using fingers, etc. Sexual acts are carried out, in most cases, absolutely gratuitously, without relation to any story. Furthermore, the monitored section of broadcasting included a program containing elements of sexual violence. The program contained, *inter alia*, sequences of raping a woman trapped in a cage. Thus, this was a pornography connected with violence, which presented abnormal and criminal behaviour and also absolute embarrassment of a woman.

The Council became acquainted with the analysis of the Hustler TV channel at its 19th meeting, where it resolved to initiate administrative proceedings for possible violation of Section 32 (3) (a) of the Broadcasting Act, which prohibits retransmission operators from broadcasting a channel that encompasses programs that are broadcast at variance with Section 32 (1) (b), (c), (e) and (f), which includes, *inter alia*, programs that could seriously affect physical, mental or moral development of children and youth, particularly by containing pornography and gross gratuitous violence. These proceedings were commenced against all operators of retransmission whose program offer could include the Hustler TV channel. The administrative proceedings will be completed by the Council in 2009.

Simultaneously with commencement of these administrative proceedings, the Council resolved to address the Dutch regulatory authority, Commissariaat voor de media, which had licensed the Hustler TV channel, with a request for examining as to whether the broadcaster of the Hustler TV channel, Sapphier Media International B.V., did not also violate the laws of the Kingdom of Netherlands.

At the same time, the Council resolved to submit instigation to the prosecuting bodies on the grounds of suspected criminal offence pursuant to Section 205 (2) (b) of Act No. 140/1961 Coll., as the broadcaster and disseminators of the Hustler TV channel, whose broadcasting on August 28, 2008, at a time between 2:07 a.m. and 2:17 a.m. CET, contained depiction of an act of brutal rape, could have committed the criminal offence of disseminating pornography by creating or disseminating and making publicly available a pornographic work that showed lack of respect to a human being and violence.

RESULTS OF CONTROL OF RADIO BROADCASTING

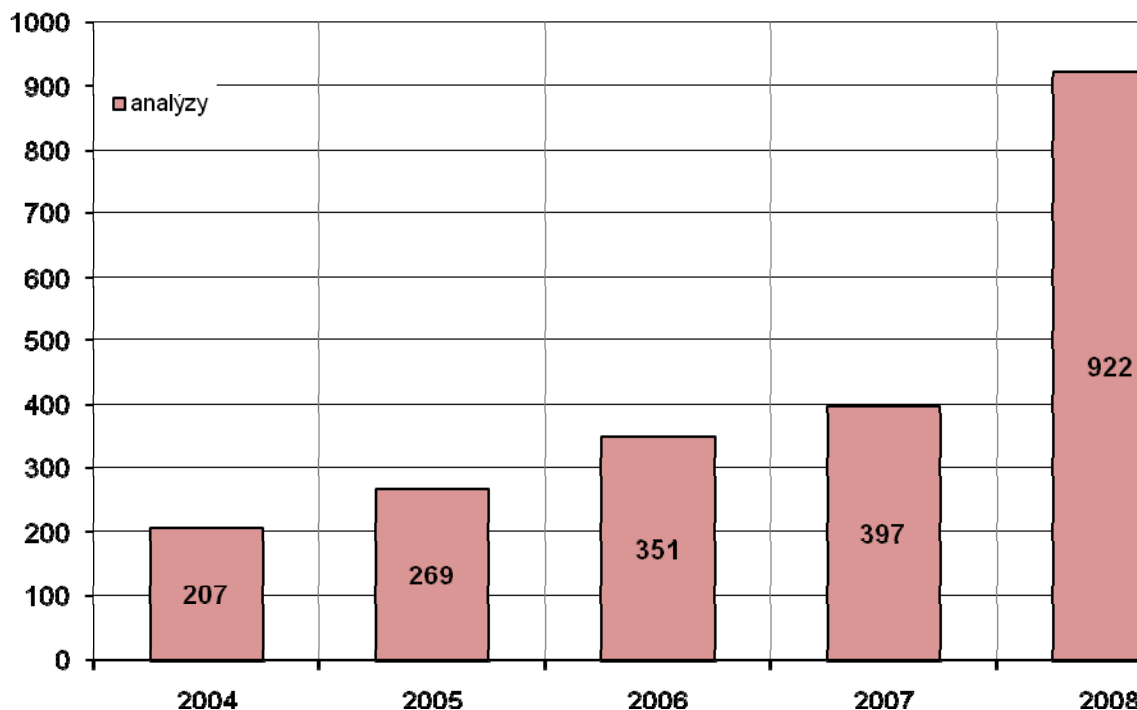
A total of 30 radio broadcasters were subjected to analysis in 2008, of which 29 broadcasters were licensed broadcasters and one was a statutory broadcaster. The analyses were carried out on the basis of targeted monitoring or on the basis of own instigation or instigations of listeners. A total of 39 analyses were carried out, of which 11 analyses were concerned with a statutory broadcaster and 28 with a licensed broadcaster.

The performed analyses yielded the following findings – In five analyses related to the statutory broadcaster, the Council found that the relevant program was broadcast in conformity with the law; on the basis of the six remaining analyses related to the statutory broadcaster, a total of

seven administrative proceedings were commenced for potential violation of the law and one notice of violation of the law was issued.

In case of analyses related to licensed broadcasters, it was ascertained that a total of 16 broadcasters broadcast their programs in accordance with the law; in the remaining cases, 18 administrative proceedings were commenced for possible violation of the law and six notices of violation of the law were issued.

CHART 6 – OVERVIEW OF THE NUMBER OF ANALYSES PERFORMED IN THE 2004-2008 PERIOD



analyses

DIFFERING OPINIONS OF THE COUNCIL MEMBERS IN CONTROL OF RADIO AND TELEVISION BROADCASTING

At the 4th meeting held on February 26 to 27, 2008, within the discussion of the current summary of delivered submissions, the Council dealt, amongst other things, with a report on neo-Nazis in Russia in the Televizní noviny program on February 7, 2008 from 7:30 p.m. on the Nova channel. In this relation, the Council voted on two proposals for a resolution; however, neither of the proposals obtained the necessary number of votes – thus, the Council did not approve initiation of administrative proceedings for possible violation of Section 32 (1) (f) of the Broadcasting Act (duty not to show, without justification, dying people or people exposed to intense physical or mental suffering, doing so in a manner detrimental to human dignity) or for possible violation of Section 32 (1) (g) of the Broadcasting Act (the duty not to broadcast programs and trailers that could endanger physical, mental or moral development of children and youth from 06:00:00 a.m. to 10:00 p.m.). Members of the Council Petr Pospíchal and Jiří Šenkýř expressed a different opinion: *“Repeated inclusion of shots of the shocking murder of two*

bound men, even with episodic omission of the actual beheading of the murdered men, and subsequent presentation of shots of beating of several persons by a much greater number of members of nationalist combat teams undoubtedly constituted breach of the duty not to depict persons dying or exposed to intense physical or mental suffering in a manner detrimental to human dignity. This kind of shot dramatically surpasses the justifiable requirements of news presentation and substantially exceeds the socially acceptable limit of depiction of aggression in broadcasting. The refusal to commence proceedings cannot be considered to constitute assessment of this report and thus we intend to again propose commencement of proceedings. If some of the members of the Council do not perceive such shots as violation of the mentioned legal duty of the broadcaster, they should not prevent proceedings in this matter and evaluation of the report by the available legal and analytical means; they should then state their opinion during the decision-making in the administrative proceedings. It cannot be excluded that, in properly conducted commenced administrative proceedings, the Council could consider this report to constitute violation of the duty not to broadcast, from 6:00 a.m. to 10:00 p.m., programs and trailers that could endanger the physical, mental or moral development of children and youth. Breach of the duty not to broadcast programs that, without justification, show dying people or people exposed to intense physical or mental suffering doing so in a manner detrimental to human dignity is an editorial procedure that shifts the socially acceptable and publicly tolerable limits of depiction of aggression and, as a consequence, leads to a reduction in the sensitivity of the public to aggression in society as a whole. The consequences of such a shift in socially acceptable limits are long-term and it is the duty of the Council to utilize its exclusive legal powers to reduce such softening of social perception of aggression. The Council cannot surrender this power even by referring to the journalist and informative character of such reports, because this character of similar reports can undoubtedly be ensured even without inclusion of such shots.”

At the 4th meeting held on February 26 to 27, 2008, within the discussion of the current summary of delivered submissions, the Council dealt, amongst other things, with a report on the conditions in Russian prisons in the Události program on February 14, 2008 from 7:00 p.m. on the CT1 channel. Neither of the two proposals for a resolution, which were voted on in this relation, obtained the necessary number of votes and, thus, the Council did not approve initiation of administrative proceedings for possible violation of Section 32 (1) (f) of the Broadcasting Act (duty not to show, without justification, dying people or people exposed to intense physical or mental suffering, doing so in a manner detrimental to human dignity) or for possible violation of Section 32 (1) (g) of the Broadcasting Act (the duty not to broadcast programs and trailers that could endanger physical, mental or moral development of children and youth from 06:00:00 a.m. to 10:00 p.m.). Members of the Council Petr Pospíchal and Jiří Šenkýř expressed a different opinion: *“We are of the opinion that the presentation of shots from prisons in Russia, consisting in barbarous beating of prisoners, intensive depiction of their suffering and showing marks left by suicide attempts could constitute breach of the duty not to show, without justification, dying people or people exposed to intense physical or mental suffering doing so in a manner detrimental to human dignity. The length of the report, several shots of people exposed to intense physical suffering and the intensity of the reduction of human dignity substantially exceeded the intensity justifiable by the need to provide a news report. We are convinced that the Council is obliged to examine any doubts as to whether these characteristics of the report, as a whole, constitute violation of the law or not, in administrative proceedings, in which it has sufficient instruments for such an examination. Refusal to commence proceedings cannot be considered to constitute evaluation of this report.”*

At the 7th meeting held on April 8 to 9, 2008, the Council was adopting a decision in administrative proceedings pursued for possible violation of Section 48 (1) (g) of the Broadcasting Act by broadcasting a surreptitious advertisement for the Mediterránea company. The Council imposed a fine of CZK 50,000.00 on Czech Radio for violation of Section 48 (1) (g) of the Broadcasting Act, because, on January 10, 2008, at 10:05 p.m., the broadcaster broadcast, within the Czech Radio 1 – Radiožurnál station, a surreptitious advertisement for the Mediterránea company in the Design, architektura, stavebnictví program. Members of the Council Katarína Vaculíková and Václav Žák expressed a different opinion: *“Czech Radio invited a representative of the Mediterránea company to comment on the increased interest of citizens of the Czech Republic in purchase of real estate abroad. Analysis did not find that the program included any sort of offer of the services of this company or communication of any sort of contact details. The representative of the company only mentioned a list of countries where the company is active, which is important information for listeners as it defines the expertise of the company. The media frequently invite the representatives of the commercial sphere to comment on professional matters, e.g. analysts from banks, because it is not possible for them to provide expertise from their own resources. As this program did not deviate from established customs, we do not agree with the imposing of a fine.”*

At the 9th meeting held on May 6, 2008, the Council addressed, within administrative proceedings pursued for possible violation of Section 31 (3) of the Broadcasting Act (possible breach of the duty to provide objective and balanced information required for free formation of opinions), the report on the Village of the Year competition in the 1. zprávy program broadcast on August 14, 2007 from 7:00 p.m. on the Prima televize channel. The administrative proceedings were in the phase following the statement by the broadcaster and, thus, the Council voted on proposals for a resolution whereby the administrative proceedings would be closed in one way or another. In the voting of the Council, neither the proposal for a resolution whereby the administrative proceedings would be discontinued on the grounds of cessation of the reason for the administrative proceedings nor the proposal for a resolution whereby the Council would notify the broadcaster of violation of Section 31 (3) of the Broadcasting Act obtained the necessary support. Members of the Council Dalibor Matulka and Daniel Novák put forth their joint differing opinion within the meaning of Section 8 (4) of the Broadcasting Act with respect to the Council's decision not to notify the broadcaster, FTV Prima, spol. s r.o. of violation of Section 31 (3) of the same Act: *“The report on the “Village of the Year” competition, broadcast in the “Zprávy” program on August 14, 2007 from 7:00 p.m. on the Prima televize channel was unobjective and unbalanced. The monument erected in memory of the victims of the war, which includes reliefs of three important politicians of that time, T. G. Masaryk, E. Beneš and J. V. Stalin, was erroneously referred to by the television station as the Stalin monument, where it would be equally untrue to call it the Masaryk monument or the Beneš monument. In a tabloid effort to attract viewers, Prima televize adopted an insensitive position towards the temporal context of erection of the monument and its present-day function where, by addressing the Deputy Minister for Regional Development, it attempted to affect (and apparently also affected) the evaluation in the national round of the competition, thus harming the municipality of Studenec. It is not up to the Council, as an authority for application of the law, or its individual members to make decisions under the influence of subjective political evaluation of historical personages, but rather, from a legal point of view, to evaluate compliance with the principles of objectivity and balance in news programs; we are of the opinion that, through failure to issue a warning, the Council did not come to terms with evaluation of the program in accordance with the law.”*

At the 11th meeting held on June 3 to 4, 2008, the Council addressed, within administrative proceedings pursued for possible violation of Section 48 (4) (a) of the Broadcasting Act (failure to duly separate advertising), the broadcasting of several versions of the Persil sponsor's messages (the Sensitive product) on the Nova channel (first broadcast on January 17, 2008). Through the approved resolution, the Council imposed a fine of CZK 50,000.00 on the broadcaster, CET 21 spol. s r.o., for violation of Section 48 (4) (a) of the Broadcasting Act in relation to broadcasting of each of the five versions of the sponsor's spot. Member of the Council Václav Žák expressed a different opinion: *"According to established case law of the Supreme Administrative Court, a sponsor's message should meet the following requirements: A (sponsor) spot may, in its consequences, contain an advertising communication in the broader sense of the word, i.e. a communication publicly promoting a business, product, goods or service, and also a slogan, i.e. a certain combination of words characterizing the entrepreneur or his product, goods or service. (...) the basic purpose of sponsoring is to create a good name or reputation of a legal or natural person or his product (i.e. goodwill). In my opinion, the evaluated sponsor spot met these requirements: in the first part, a short episode showed children being dressed in snow-white clothing (i.e. did not present the product, but only indicated the possible consequences of its use); in the second, the name of the product Persil Sensitive and the producer, i.e. the Henkel company, as the sponsor, were depicted while reading the slogan. Simultaneously, the central theme of the spot was not a dynamic advertising scene. In agreement with the opinion of the Supreme Administrative Court, the spot actually primarily created goodwill. Consequently, I am of the opinion that a fine should not have been imposed."*

At the 13th meeting held on July 1 to 2, 2008, within the discussion of the current summary of delivered submissions, the Council dealt, amongst other things, with a spot related to a British campaign aimed against reckless drivers within the Otázky Václava Moravce program on June 22, 2008 from 12:00 p.m. on the CT1 channel. In this relation, the Council voted on a proposal for a resolution whereby it would initiate administrative proceedings for potential violation of Section 32 (1) (g) of the Broadcasting Act (prohibition of broadcasting programs and trailers that could endanger physical, mental or moral development of children and youth from 6:00 a.m. to 10:00 p.m.); however, the proposal for the resolution was not approved. Member of the Council Jiří Šenkýř expressed a different opinion: *"Act No. 231/2001 Coll. [the Broadcasting Act] protects children and adolescents against potential endangering of their physical, mental and moral development without regard to whether the intention of the shot is to draw attention to a critical situation in transportation, depict the horrors of the consequences of traffic accidents and thus possibly reduce the accident rate and death rate of children and adults in traffic accidents. The shots used in the program could cause shock and upheaval in small and younger children if they happened to be accidentally in front of the television screen and did not receive an appropriate explanation from an adult. The Council should thus have commenced administrative proceedings for potential violation of Section 32 (1) (g) of Act No. 231/2001 Coll., as the program could have endangered particularly the mental development of children."*

At the 14th meeting held on July 29 to 30, 2008, the Council addressed, within administrative proceedings pursued for possible violation of Section 2 (1) (d) of the Broadcasting Act, the Snickers inbox program broadcast on March 21, 2008 from 5:00 p.m. on the O channel ("Ocko"), specifically the shots depicting the sign Red Bull on the cap worn by a guest of the program. The Council imposed a fine of CZK 50,000 on the broadcaster, Stanice O, a.s., for breach of the prohibition of surreptitious advertising. Members of the Council Eva Kantůrková, František Pejřil and Václav Žák expressed a different opinion: *"The Council decided to consider the Red Bull logo on the cap of a guest discussing a snowboarding event in Krkonoše with the program host to*

constitute surreptitious advertising. The broadcaster stated that the guest chose his own clothing and this was not commercial activity by the television channel. With respect to the fact that

- the definition of an advertisement is connected with an activity of the broadcaster,

- slogans and logos are a quite normal part of the clothing of all sportspersons and generally appear in broadcasts,

- the studio can hardly tell its guests what to wear,

we are of the opinion that the writing on the cap of the guest should not have been considered to be hidden advertising.”

At the 19th meeting held on October 21, 2008, the Council addressed, within administrative proceedings pursued for possible violation of Section 48 (4) (a) of the Broadcasting Act, several sponsor's messages by RAVAK (spots focused on various products: Be happy, Praktik, Rapier and Rosa), whose broadcasting was first determined on the Nova channel on May 2, 2008. Through its resolution, the Council imposed a fine of CZK 50,000.00 on the broadcaster, CET 21 spol. s r.o., for violation of Section 48 (4) (a) of the Broadcasting Act in relation to broadcasting of each of the four sponsor's spots. Member of the Council Václav Žák expressed a different opinion: *“A unique situation occurred in the case of the RAVAK sponsor spots, as the broadcaster admitted his mistake and asked the COUNCIL to reduce the fine. However, the Council imposed a fine in the usual amount. I am of the opinion that the Council should promote self-criticism on the part of broadcasters, rather than ignore it.”*

At the 19th meeting held on October 21, 2008, the Council addressed, within administrative proceedings pursued for possible violation of Section 31 (3) of the Broadcasting Act (duty to ensure that the principles of objectivity and balance are maintained and that no opinions of individual groups of the general public are not favored), the news report Nečtěte o tom, co můžete vidět in the Televizní noviny program on May 5, 2008 at 7:30 p.m. on the Nova channel. The Council discontinued the administrative proceedings against the broadcaster, CET 21 spol. s r.o., as the violation of law had not been proven, whereby the grounds for the administrative proceedings ceased to exist. Members of the Council Jiří Šenkýř and Petr Pospíchal expressed a different opinion: *“The decision of the Council on discontinuing the administrative proceedings related to the report Nečtěte o tom, co můžete vidět within the Televizní noviny program of May 5, 2008 on the Nova channel did not encompass the fact that the broadcaster promoted services of its own activities (? – trans.) not related to the broadcasting in that it presented the website tn.cz as a unique and irreplaceable source of information, although there are a greater number of similar servers on the Czech market. Thus, the information in the news report was not objective and was unbalanced. However, it was the intention of the report primarily to create interest in this web site amongst viewers. Consequently, the Council should also have considered commencement of proceedings on an unseparated advertisement.”*

At the 20th meeting held on November 4, 2008, the Council adopted a resolution in administrative proceedings pursued for possible violation of Section 31 (2) of the Broadcasting Act (duty to provide objective and balanced information required for free formation of opinions) in relation to the contents of the program broadcast by the Czech Radio 1 – Radiožurnál station, specifically with respect to a report on a rejecting resolution of the Supreme Court of the Czech Republic on an application for appellate review lodged by an accused driver in the case of a traffic accident resulting in death, which the announcer read from the Hospodářské noviny daily within the Overview of the Press. By a resolution that was approved by a majority of votes, the

Council discontinued administrative proceedings pursued against the broadcaster, Czech Radio, for possible violation of Section 31 (2) of the Broadcasting Act, which allegedly occurred on August 28, 2008 at 7:20 a.m. on the Czech Radio 1 - Radiožurnál station within the Overview of the Press by broadcasting non-objective and unbalanced information, because it had not been proven that the violation of the law had occurred, whereby the grounds for the administrative proceedings ceased to exist. Members of the Council Jiří Šenkýř and Dalibor Matulka expressed a different opinion: „*In the Overview of the Press on August 28, 2008, Czech Radio 1 – Radiožurnál provided highly distorted and thus untrue information on the content of the ruling of the Supreme Court of the Czech Republic related to the tragic collision of a motorcyclist and pedestrian on a pedestrian crossing. In the broadcast information, the content of the court decision was interpreted in a completely unobjective way and contrary to the facts. The fact that the broadcaster was culpable of this breach of the principle of objectivity and balance in the framework of the Overview of the Press and indicated the source from which the information was taken has no decisive importance from the standpoint of the provisions of Section 31 (2) of the Act on Broadcasting. The broadcaster could have verified the actual content of the relevant, several-month-old decision at any time from publicly accessible sources, e.g. the web site of the Supreme Court of the Czech Republic. In that the Council, through a majority of votes, discontinued the administrative proceedings against Czech Radio in this matter, it exceeded the limits of its discretion at variance with the law, because the reason did not cease to exist during the proceedings.*”

At the 20th meeting held on November 4, 2008, the Council adopted a resolution in administrative proceedings pursued for possible violation of Section 31 (2) of the Broadcasting Act (duty to provide objective and balanced information required for free formation of opinions) in relation to the contents of broadcasting by the FREKVENCE 1 radio station, specifically with respect to a report on a rejecting resolution of the Supreme Court of the Czech Republic on an application for appellate review lodged by an accused driver in the case of a traffic accident resulting in death, which was part of the newscast on August 28, 2008 at 7:00 a.m. By a resolution that was approved by a majority of votes, the Council discontinued administrative proceedings pursued against the broadcaster, Frekvence 1, a.s., for possible violation of Section 31 (2) of the Broadcasting Act, which allegedly occurred on August 28, 2008 at 7:00 a.m. on the FREKVENCE 1 station by broadcasting of non-objective and unbalanced information in the newscast, because remedy had been ensured and the grounds for the administrative proceedings thus ceased to exist. Members of the Council Jiří Šenkýř and Dalibor Matulka expressed a different opinion: “*The radio station Frekvence 1 provided highly distorted and thus untrue information on the content of the ruling of the Supreme Court of the Czech Republic related to the tragic collision of a motorcyclist and pedestrian on a pedestrian crossing. In the broadcast information, the content of the court decision was interpreted in a completely unobjective way and contrary to the facts. The fact that the broadcaster then broadcast the response of the Supreme Court on September 29, 2008 has no decisive importance from the standpoint of its liability for breaching the provisions of Section 31 (2) of the Act on Broadcasting, neither has the fact that the broadcaster took this untrue information from the press. The broadcaster could have verified the actual content of the relevant, several-month-old decision at any time from publicly accessible sources, e.g. the web site of the Supreme Court of the Czech Republic. In that the Council, through a majority of votes, discontinued the administrative proceedings against Frekvence 1 in this matter, it exceeded the limits of its discretion at variance with the law, because the reason did not cease to exist during the proceedings.*”

At the 22nd meeting on December 2, 2008, within discussion of the current summary of delivered submissions, the Council dealt, amongst other things, with the *Máte slovo* program broadcast on November 20, 2008 from 9:00 p.m. on the CT1 channel. The topic of the program was: Does KSCM act in accordance with the Czech constitution and laws? In this case, the Council found no reasons for commencement of administrative proceedings. Members of the Council Dalibor Matulka and Daniel Novák put forth their joint differing opinion within the meaning of Section 8 (4) of the Broadcasting Act with respect to the Council's decision not to commence administrative proceedings against Czech Television as the broadcaster, for possible violation of Section 31 (2) and (3) of the Broadcasting Act: *"The "Máte slovo" program, broadcast on the CT1 channel on November 20, 2008 from 9:00 p.m., devoted to a very important political subject, the possibility of outlawing the third strongest political party in the country (according to the long-term election results and repeated surveys of voter preferences) was unobjective and unbalanced. The host provided very different amounts of time to the two discussing sides for expression of their opinions on this subject. While she left sufficient time for those who favoured outlawing KSČM for long speeches and expression of their individual arguments for their statements, persons who considered such a decision to be incorrect had only a fraction of the time for speaking and were repeatedly not allowed to express their individual counter-arguments, as they were constantly interrupted by the host, or the host passed on to a different subject without allowing them to speak. Similarly, the host was not capable of reacting to a number of unfounded statements of the disputants or of at least asking them where they got their information. In addition, the personal standpoint of the host towards the subject under discussion was obvious from the content of what she said. As a consequence of this lack of balance, the viewers were not able to compare the arguments of the two sides so that they could form their own opinion. The program was a textbook example of completely incompetent hosting of a program. As a consequence of the lack of preparation of the host and her biased approach, the discussion was not objective or balanced. The seriousness of this defect is all the more important because it was committed by a public-service medium. It is not up to the Council, as an authority for application of the law, or its individual members to make decisions under the influence of subjective political evaluation, but rather, from a legal point of view, to evaluate compliance with the principles of objectivity and balance; through failure to commence administrative proceedings, in which the above-described opinion would be confirmed or rejected, the Council did not come to terms with evaluation of the program in accordance with the law."*

E. INFORMATION ON GRANTED LICENSES AND CRITERIA ON THE BASIS OF WHICH LICENSES WERE GRANTED TO APPLICANTS FOR A LICENSE AND ON THE BASIS OF WHICH APPLICATIONS OF ALL OTHER PARTIES TO THE PROCEEDINGS WERE DISMISSED

[SECTION 6 (1) (E) OF THE BROADCASTING ACT]

Granting licenses for radio and television broadcasting belongs amongst the most important powers entrusted to the Council for Radio and Television Broadcasting.

Joint license proceedings pursuant to Title I of the Broadcasting Act are commenced by the Council either at its own instigation (*ex officio*) or at instigation of an applicant for a license by announcement of the license proceedings. Individual projects compete in the proceedings and the Council selects the best project based on the criteria stipulated in Section 17 of the Broadcasting Act, where the core of its discretion consists *de facto* in evaluation of the benefits ensuing from the program structure proposed by the license applicant to diversity of the current offer of programs. Within this discretion, the Council compares, within the delimited geographical area, both the individual projects mutually and all the presented projects with the current program offer. For every joint license proceedings, the Council draws up an overview of channels that can be received within the delimited area and this overview then becomes an integral part of justification of the decision on granting the license. This procedure of the Council is positively reflected in decision-making by the courts in administrative justice, recently e.g. in judgment of the Municipal Court in Prague of November 19, 2008, Ca 280/2008-55, where the Court concluded: "In the reasoning of the decision, the Council sufficiently set out those facts that were decisive for assessing the applicant's benefit for development of original works. It is not the purpose of the reasoning of the decision to state all individual facts that are included in the application or other underlying materials. It is important that all the underlying materials be evaluated, with respect to all the applicants, on the basis of the same criteria and approximately within the same scope; however, it is permissible for the administrative authority to mention, in the reasoning, in more detail those facts to which it attributes, and that objectively have, greater significance from the viewpoint of the overall evaluation of the given applicant. The actual considerations of the administrative authority (individual members of the Council) as to the degree to which the individual applicants fulfill a certain criterion, i.e. which of the applicants fulfils the best the given criterion, is not subject to judicial review." Joint license proceedings include a public hearing, during which the parties to the license proceedings propose the wording of the license conditions, which will become, if the license is granted, the binding license conditions, except for the temporal and geographical area of the broadcasting, which is specified by the Council after agreement with the party so that they are in accordance with the standpoint of the Czech Telecommunication Office. This chapter newly describes, in addition to the criteria on the basis of which licenses were granted to the applicants for a license and on the basis of which applications of other parties to the proceedings were dismissed, also the program conditions of the successful applicants.

A more simple form is used for license proceedings on radio or television broadcasting disseminated via satellites and cable systems pursuant to Title II of the Broadcasting Act, which are commenced at instigation of the applicant who is the only party to the proceedings. Here the Council considers only whether the applicant for a license meets the conditions pursuant to

Section 13 (3) and whether the proposed program structure meets the conditions pursuant to Sections 31 and 32 (1) of the Broadcasting Act.

Furthermore, pursuant to Section 22 of the Broadcasting Act, the Council may grant a short-term license, including a license for test broadcasting. An application for a short-term license must contain the same requisites as an application lodged within license proceedings. The Council is obliged to make a decision on granting a short-term license in summary proceedings within 60 days of delivery of the application. The term of a short-term license may not exceed 60 days during a calendar year.

An absolutely special case is represented by compensation licenses pursuant to Art. IV (4) and (5) of the transitory provisions of Act No. 304/2007 Coll., which amends, with effect from January 1, 2008, certain laws in relation to the completion of the transition from terrestrial analogue television broadcasting to terrestrial digital television broadcasting. The Council grants, on the one hand, compensation licenses for nationwide terrestrial digital broadcasting to the holders of a license for nationwide terrestrial analogue and digital broadcasting who have delivered to the Council, within three months of the date of effect of the Technical Plan of Transition from Terrestrial Analogue Television Broadcasting to Terrestrial Digital Television Broadcasting, a written declaration that they will return the set of technical parameters for broadcasting and a written declaration that they will cease terrestrial analogue television broadcasting within the set deadline (the compensation license was granted to CET 21 spol. s r.o.; FVT Prima, spol. s r.o. lodged an application at the end of 2008) and, on the other hand, compensation licenses to those applicants to whom a license for nationwide terrestrial digital television broadcasting had been granted by the Council prior to the date of effect of the mentioned law through a decision against which an action had been lodged (in 2008, a compensation license was thus applied for and received by Barrandov Televizní Studio a.s. and První zpravodajská a.s.). A compensation license expires on the date of completion of the transition from terrestrial analogue television broadcasting to terrestrial digital television broadcasting, upon expiry of a period of 360 days from its granting if the holder fails to commence broadcasting within this period, or for other reasons stipulated by the law. Finally, EBD, s. r. o., and FTV Prima, spol. s r. o., obtained “bonus licenses” pursuant to Art. II of the transitory provisions of Act No. 235/2006 Coll., amending the Broadcasting Act and some other laws.

It should be noted in this respect that, in accordance with Art. IV (3) of the transitory provisions of Act No. 304/2007 Coll., amending some laws in relation to completion of the transition from terrestrial analogue television broadcasting to terrestrial digital television broadcasting, the Council discontinued license proceedings for operation of terrestrial digital television broadcasting disseminated via transmitters Ru/25/06 and Ru/26/06.

The Council’s competence also includes issuance of decisions on registration of retransmission. Therefore, for the sake of completeness, this chapter also includes a survey of newly registered retransmission operators. A decision on registration of retransmission pursuant to Section 26 et seq. of the Broadcasting Act authorizes the operator to operate retransmission through an electronic communications network (in a cable system or via satellites or via transmitters). There is legal entitlement to registration provided that the conditions set forth in Section 27 of the Broadcasting Act are fulfilled.

TABLE 10 – OVERVIEW OF PROCEEDINGS ON GRANTING A LICENSE

type of broadcasting	number of proceedings	decisions	pending
radio broadcasting via terrestrial transmitters	14	9	5
television broadcasting in the DVB-T system	6	5	1
television broadcasting via satellites	25	25	-
television broadcasting via cable systems	10	8	2
television broadcasting via cable systems and satellites	4	3	1
short term license (terrestrial digital radio broadcasting in the T-DAB and DAB+ formats)	3	3	-

PROCEEDINGS ON GRANTING A LICENSE FOR RADIO BROADCASTING WITH THE USE OF TERRESTRIAL TRANSMITTERS

LICENSE PROCEEDINGS ON GRANTING A LICENSE FOR RADIO BROADCASTING DISSEMINATED VIA TERRESTRIAL TRANSMITTERS WITH A SET OF TECHNICAL PARAMETERS FOR THE FREQUENCY PRAGUE – ZELENÝ PRUH 90.7 MHZ/100 W

TABLE 11 – LIST OF PARTIES TO THE PROCEEDINGS WITH THE NAMES OF THE STATIONS AND THE COUNCIL DECISION – LP PRAGUE – ZELENÝ PRUH 90.7 MHZ/100 W

Party to the proceedings	Identification of the name of the station	Council decision
M.I.B. production service s. r. o.	Jazz FM	application dismissed
INTERSONIC spol. s r. o.	ROCKJAMRADIO	application dismissed
ČERNÁ HORA - MEDIA s. r. o.	Radio Černá Hora	application dismissed
dada media s. r. o.	Limonádové Radijo	application dismissed
MAX LOYD, s. r. o.	Info DJ	application dismissed
ALL STARS AGENCY s. r. o.	SEEJAY Radio	application dismissed
LONDA spol. s r. o.	RockZone 105,9	application dismissed
ULTRAVOX s. r. o.	Radio Ethno	license granted for a term of 8 years
Campus Media s. r. o.	Sport FM	application dismissed

On April 8, 2008, the Council granted a license to ULTRAVOX s. r. o. by 10 votes of its members of the 13 members present, for a term of 8 years from the legal force of the decision on granting the license.

**LICENSE PROCEEDINGS ON GRANTING A LICENSE FOR RADIO BROADCASTING
DISSEMINATED VIA TERRESTRIAL TRANSMITTERS WITH A SET OF TECHNICAL
PARAMETERS FOR THE FREQUENCY PRAGUE – JINONICE 102.9 MHZ/100 W**

TABLE 11 – LIST OF PARTIES TO THE PROCEEDINGS WITH THE NAMES OF THE STATIONS AND THE COUNCIL DECISION – LP PRAGUE – JINONICE 102.9 MHZ/100 W

Party to the proceedings	Identification of the name of the station	Council decision
MAX LOYD, s. r. o.	Info DJ	license granted for a term of 8 years
M.I.B. production service, s. r. o.	Jazz FM	application dismissed
LONDA, s. r. o.	RockZone 105,9	application dismissed
ČERNÁ HORA – MEDIA, s. r. o.	Radio Černá Hora	application dismissed
dada media, s. r. o.	Limonádové RadijO	application dismissed

On April 8, 2008, the Council granted a license to MAX LOYD, s. r. o. by 9 votes of its members of the 13 members present, for a term of 8 years from the legal force of the decision on granting the license.

**LICENSE PROCEEDINGS ON GRANTING A LICENSE FOR RADIO BROADCASTING
DISSEMINATED VIA TERRESTRIAL TRANSMITTERS WITH A SET OF TECHNICAL
PARAMETERS FOR THE FREQUENCY TÁBOR 101.8 MHZ/1 W**

TABLE 13 – LIST OF PARTIES TO THE PROCEEDINGS WITH THE NAMES OF THE STATIONS AND THE COUNCIL DECISION – LP TÁBOR 101.8 MHZ/1 KW

Party to the proceedings	Identification of the name of the station	Council decision
ALL STARS AGENCY s. r. o.	Rádio TÁBOR	application dismissed
RADIO BONTON a. s.	RÁDIO BONTON	application dismissed
Rádio Jižní Čechy s. r. o.	Rádio Hey Jižní Čechy	application dismissed

Party to the proceedings	Identification of the name of the station	Council decision
COUNTRY RADIO s. r. o.	Country Radio	license granted for a term of 8 years
Agentura TRS spol. s r. o.	RADIO 1	application rejected
JUDr. Ladislav Faktor	RADIO FAKTOR GOLD	application dismissed
Radio Ještěd s. r. o.	Radio Tábor	application dismissed
JOE Media s. r. o.	Rádio SÁZAVA	proceedings discontinued
dada media s. r. o.	SIMPLE MUSIC RADIO	application dismissed
Simple Media s. r. o.	SIMPLE MUSIC RADIO	proceedings discontinued

Note: In joint license proceedings, the Council usually grants one license and dismisses the applications of other parties to the proceedings; however, if the license application does not have the prescribed requisites and the license application fails to remedy the shortcomings within the deadline set by the Council, the Council rejects the license application; if the applicant fails to pay the administrative fee, the Council discontinues the proceedings and does not evaluate the license application.

On February 27, 2008, the Council granted a license to COUNTRY RADIO s. r. o. by 10 votes of its members of the 11 members present, for a term of 8 years from the legal force of the decision on granting the license.

**LICENSE PROCEEDINGS ON GRANTING A LICENSE FOR RADIO BROADCASTING
DISSEMINATED VIA TERRESTRIAL TRANSMITTERS WITH A SET OF TECHNICAL
PARAMETERS FOR THE FREQUENCY LIBEREC – ZOO 93.3 MHZ/200 W**

TABLE 14 – LIST OF PARTIES TO THE PROCEEDINGS WITH THE NAMES OF THE STATIONS AND THE COUNCIL DECISION – LP LIBEREC - ZOO 93.3 MHZ/200 W

Party to the proceedings	Identification of the name of the station	Council decision
RADIO BONTON a. s.	RÁDIO BONTON	application dismissed
Radio Ještěd s. r. o.	Radio Ještěd	application dismissed
RADIO CRYSTAL s. r. o.	Hitrádio Crystal	application dismissed
KALENDÁŘ LIBERECKA spol. s r. o.	Rádio „dobrý den“	license granted for a term of 8 years

On March 26, 2008, the Council granted a license to KALENDÁŘ LIBERECKA spol. s r. o. by 11 votes of its members of the 11 members present, for a term of 8 years from the legal force of the decision on granting the license.

**LICENSE PROCEEDINGS ON GRANTING A LICENSE FOR RADIO BROADCASTING
DISSEMINATED VIA TERRESTRIAL TRANSMITTERS WITH A SET OF TECHNICAL
PARAMETERS FOR THE FREQUENCY PLZEŇ CENTRUM 97.5 MHZ/100 W**

TABLE 15 – LIST OF PARTIES TO THE PROCEEDINGS WITH THE NAMES OF THE STATIONS AND THE COUNCIL DECISION – LP PLZEŇ CENTRUM 97.5 MHZ/100 W

Party to the proceedings	Identification of the name of the station	Council decision
ESA - rádio, s. r. o.	Fajn radio	application dismissed
RADIO BONTON a. s.	RÁDIO BONTON	application dismissed
BROADCAST MEDIA s. r. o.	Radio BEAT	license granted for a term of 8 years
PRO RADIO s. r. o.	Rádio Hey Západní Čechy	application dismissed
ALL STARS AGENCY s. r. o.	SEEJAY Radio	application dismissed

On May 20, 2008, the Council granted a license to Broadcast Media s. r. o. by 10 votes of its members of the 12 members present, for a term of 8 years from the legal force of the decision on granting the license.

**LICENSE PROCEEDINGS ON GRANTING A LICENSE FOR RADIO BROADCASTING
DISSEMINATED VIA TERRESTRIAL TRANSMITTERS WITH A SET OF TECHNICAL
PARAMETERS FOR THE FREQUENCY JIHLAVA - HOSOV 101.1 MHZ/250 W**

TABLE 16 – LIST OF PARTIES TO THE PROCEEDINGS WITH THE NAMES OF THE STATIONS AND THE COUNCIL DECISION – LP JIHLAVA - HOSOV 101.1 MHZ/250 W

Party to the proceedings	Identification of the name of the station	Council decision
Media Party spol. s r. o.	Radio OK	application dismissed
RADIO BONTON a. s.	RÁDIO BONTON	application dismissed
NONSTOP s. r. o.	RÁDIO JIHLAVA	proceedings discontinued
ESA – rádio s. r. o.	Fajn radio	proceedings discontinued
RADIO STATION BRNO s. r. o.	KISS HÁDY	application dismissed
Radio Profil s. r. o.	Radio Hey Vysočina	application dismissed

Party to the proceedings	Identification of the name of the station	Council decision
NONSTOP s. r. o.	RÁDIO JIHLAVA	license granted for a term of 8 years
Star Promotion s. r. o.	Radio Hey Vysočina	application dismissed
Radio Proglas s. r. o.	Radio Proglas	application dismissed
AZ Media a. s.	ROCK MAX	application dismissed
NONSTOP s. r. o.	Rádio Krokodýl	application dismissed
Posázavské Rádio s. r. o.	Radio Hey Vysočina	application dismissed
medial agency s. r. o.	Rádio JIHLAVA	application dismissed

On June 3, 2008, the Council granted a license to NONSTOP s. r. o. by 10 votes of its members of the 10 members present, for a term of 8 years from the legal force of the decision on granting the license.

LICENSE PROCEEDINGS FOR RADIO BROADCASTING USING THE SET OF TECHNICAL PARAMETERS BENEŠOV - KOZMICE 89.3 MHZ/5 KW - CONTINUATION OF PROCEEDINGS

TABLE 17 – LIST OF PARTIES TO THE PROCEEDINGS WITH THE NAMES OF THE STATIONS AND THE COUNCIL DECISION – LP BENEŠOV – KOZMICE 89.3 MHZ/5 W

Party to the proceedings	Identification of the name of the station	Council decision
CITY MULTIMEDIA s. r. o.	Rádio Pohoda	application dismissed
COUNTRY RADIO s. r. o.	COUNTRY RADIO	application dismissed
JOE Media s. r. o.	Rádio Sázava	application dismissed
M-Publicity s. r. o.	Rádio Nový Preston	license granted for a term of 8 years

On September 23, 2008, the Council granted a license to M-Publicity s. r. o. by 9 votes of its members of the 12 members present, for a term of 8 years from the legal force of the decision on granting the license.

**LICENSE PROCEEDINGS ON GRANTING A LICENSE FOR RADIO BROADCASTING
DISSEMINATED VIA TERRESTRIAL TRANSMITTERS WITH A SET OF TECHNICAL
PARAMETERS FOR THE FREQUENCY MOST - ŠIROKÝ VRCH 107.9 MHZ/200 W**

TABLE 18 – LIST OF PARTIES TO THE PROCEEDINGS WITH THE NAMES OF THE STATIONS AND THE COUNCIL DECISION – LP MOST - ŠIROKÝ VRCH 107.9 MHZ/200 W

Party to the proceedings	Identification of the name of the station	Council decision
Broadcast Media s. r. o.	Radio BEAT	application dismissed
Gama media s. r. o.	Gama Rádio	license granted for a term of 8 years
Rádio Podještědí s. r. o.	Radio Hey Sever	application dismissed
Radioclub FM 88.0 s. r. o.	RÁDIOPRO	application dismissed
Radio Šumava s. r. o.	Radio Šumava	application rejected

On November 4, 2008, the Council granted a license to Gama media s. r. o. by 10 votes of its members of the 11 members present, for a term of 8 years from the legal force of the decision on granting the license.

**LICENSE PROCEEDINGS ON GRANTING A LICENSE FOR RADIO BROADCASTING
DISSEMINATED VIA TERRESTRIAL TRANSMITTERS WITH A SET OF TECHNICAL
PARAMETERS FOR THE FREQUENCY JIHLAVA – RUDNÝ 99.4 MHZ/0.8 W**

TABLE 19 – LIST OF PARTIES TO THE PROCEEDINGS WITH THE NAMES OF THE STATIONS AND THE COUNCIL DECISION – LP JIHLAVA – RUDNÝ 99.4 MHZ/0.8 W

Party to the proceedings	Identification of the name of the station	Council decision
NONSTOP s. r. o.	Rádio Krokodýl	application dismissed
dada media s. r. o.	SIMPLE MUSIC RADIO	proceedings discontinued
RADIO STATION BRNO s. r. o.	KISS HÁDY	application dismissed
Route Radio s. r. o.	Rádio Dálnice	license granted for a term of 8 years
Star Promotion s. r. o.	Radio Hey	application dismissed

Posázavské Rádio s. r. o.	Radio Hey Vysočina	application dismissed
AZ Media a. s.	ROCK MAX	application dismissed
RADIO BONTON a. s.	RÁDIO BONTON	application dismissed
Radioclub FM 88.0, s. r. o.	RÁDIO PRO	application dismissed
ALL STARS AGENCY s. r. o.	SEEJAY Radio	application dismissed
Cuculus s. r. o.	COUNTRY 99,4 FM	application rejected
ČERNÁ HORA – MEDIA s. r. o.	RADIO ČERNÁ HORA	application rejected

On December 16, 2008, the Council granted a license to Route Radio s. r. o. by 9 votes of its members of the 12 members present, for a term of 8 years from the legal force of the decision on granting the license.

**LICENSE PROCEEDINGS WITH RESPECT TO THE SET OF TECHNICAL PARAMETERS
FOR THE FREQUENCY FRÝDEK-MÍSTEK 95.4 MHZ/200 W**

TABLE 20- LIST OF PARTIES TO THE PROCEEDINGS WITH THE NAMES OF THE STATIONS AND THE COUNCIL DECISION - LP FRÝDEK - MÍSTEK 95.4 MHZ/200 W

Party to the proceedings	Identification of the name of the station	Council decision
EVROPA 2, spol. s r. o.	EVROPA 2 - MORAVA	decision not yet rendered
JUKE BOX spol. s r. o.	RADIO ČAS	decision not yet rendered
Fill Radio, s. r. o.	FILL RADIO	application rejected

The Council has lodged a cassation complaint against the cancellation judgment rendered by the Municipal Court in Prague concerning the frequency Frýdek - Místek 95.4 MHz/200 W. The Supreme Administrative Court has not yet ruled on the cassation complaint.

**LICENSE PROCEEDINGS WITH RESPECT TO THE SET OF TECHNICAL PARAMETERS
FOR THE FREQUENCY UHERSKÉ HRADIŠTĚ 95.8 MHZ/200 W**

TABLE 21 - LIST OF PARTIES TO THE PROCEEDINGS WITH THE NAMES OF THE STATIONS AND THE COUNCIL DECISION - LP UHERSKÉ HRADIŠTĚ 95.8 MHZ/200 W

Party to the proceedings	Identification of the name of the station	Council decision
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EVROPA 2, spol. s r. o.	EVROPA 2	decision not yet rendered
Rádio Pálava s. r. o.	RÁDIO JIH	decision not yet rendered
Radiospol s. r. o.	Radio Dyje	decision not yet rendered

The Council has lodged a cassation complaint against the cancellation judgment rendered by the Municipal Court in Prague concerning the frequency Uherské Hradiště 95.8 MHz/200 W. The Supreme Administrative Court has not yet ruled on the cassation complaint.

**LICENSE PROCEEDINGS WITH RESPECT TO THE SET OF TECHNICAL PARAMETERS
FOR THE FREQUENCY UHERSKÝ BROD 88.5 MHZ/200 W**

TABLE 22 - LIST OF PARTIES TO THE PROCEEDINGS WITH THE NAMES OF THE STATIONS AND THE COUNCIL DECISION - LP UHERSKÝ BROD 88.5 MHZ/200 W

Party to the proceedings	Identification of the name of the station	Council decision
EVROPA 2, spol. s r. o.	EVROPA 2	decision not yet rendered
JUKE BOX spol. s r. o.	RADIO ČAS	decision not yet rendered
Radiospol s. r. o.	Radio Dyje	decision not yet rendered

The Supreme Administrative Court accepted the Council's cassation complaint against the cancellation judgment rendered by the Municipal Court in Prague concerning the frequency Uherský Brod 88.5 MHz. The Municipal Court in Prague will again make a decision in the given case in 2009, where it will be bound by the legal opinion of the Supreme Administrative Court.

**LICENSE PROCEEDINGS WITH RESPECT TO THE SET OF TECHNICAL PARAMETERS
FOR THE FREQUENCY VSETÍN 96.6 MHZ/200 W**

TABLE 23- LIST OF PARTIES TO THE PROCEEDINGS WITH THE NAMES OF THE STATIONS AND THE COUNCIL DECISION - LP VSETÍN 96.6 MHZ/200 W

Party to the proceedings	Identification of the name of the station	Council decision
Eleanes s. r. o.	Rádio mladé Valašsko	decision not yet rendered
EVROPA 2, spol. s r. o.	EVROPA 2	decision not yet rendered

The Council has lodged a cassation complaint against the cancellation judgment rendered by the Municipal Court in Prague concerning the frequency Vsetín 96.6 MHz/200 W. The Supreme Administrative Court has not yet ruled on the cassation complaint.

**LICENSE PROCEEDINGS WITH RESPECT TO THE SET OF TECHNICAL PARAMETERS
FOR THE FREQUENCY BRNO - KOHOUTOVICE 105.1 MHZ/500 W**

TABLE 24- LIST OF PARTIES TO THE PROCEEDINGS WITH THE NAMES OF THE STATIONS AND THE COUNCIL DECISION - LP BRNO - KOHOUTOVICE 105.1 MHZ/500 W

Party to the proceedings	Identification of the name of the station	Council decision
ALL STARS AGENCY s. r. o.	Radio MIXX	decision not yet rendered
Star Promotion, s. r. o.	Radio 105,1 Brno	decision not yet rendered
Intertrade Moravia s. r. o.	Radio Brno	decision not yet rendered
Route Radio s. r. o.	Rádio Dálnice	decision not yet rendered
NONSTOP s. r. o.	DOBRÉ RÁDIO	decision not yet rendered
Radioclub FM 88.0, s. r. o.	RÁDIOPRO	decision not yet rendered
ESA - rádio, s. r. o.	Fajn radio	decision not yet rendered
AZ Media a. s.	ROCK MAX	decision not yet rendered
LONDA spol. s r. o.	RockZone 105,1	decision not yet rendered
dada media s. r. o.	SIMPLE MUSIC RADIO	decision not yet rendered
COUNTRY RADIO s. r. o.	COUNTRY RADIO	decision not yet rendered
JUKE BOX, spol. s r. o.	Rádio Čas - country	decision not yet rendered
MAX LOYD, s. r. o.,	Radio DeeJay	decision not yet rendered
Rádio Pálava s. r. o.	RÁDIO JIH	decision not yet rendered

A decision was not made in 2008 on granting the license.

**PROCEEDINGS ON GRANTING A LICENSE FOR TELEVISION BROADCASTING IN
THE DVB-T SYSTEM**

TABLE 25- LIST OF PARTIES TO THE PROCEEDINGS WITH THE NAMES OF THE STATIONS AND THE COUNCIL DECISION - LP IN THE DVB-T SYSTEM

Party to the proceedings	Identification of the name of the station	Council decision
První zpravodajská a. s.	Z1	compensation license granted on

Party to the proceedings	Identification of the name of the station	Council decision
		April 8, 2008
Barrandov Televizní Studio a. s.	Televize Barrandov	compensation license granted on February 26, 2008
CET 21 spol. s r. o.	Nova Cinema	compensation license granted on December 18, 2008
FTV Prima, spol. s r. o.	Prima 2	proceedings on granting the compensation license have been suspended
EBD, s. r. o.	TV 7	license granted on February 26, 2008
FTV Prima, spol. s r. o.	Prima klub	license granted on June 17, 2008

PROCEEDINGS ON GRANTING A LICENSE FOR RADIO AND TELEVISION BROADCASTING WITH THE USE OF SATELLITES AND CABLE SYSTEMS

This type of proceedings on granting a license is commenced, pursuant to Title II of the Broadcasting Act, at instigation of the applicant, who is the only party to the proceedings. The Council's margin for discretion is minimized by the Broadcasting Act; under the Act, the Council is authorized to consider only whether the applicant for a license meets the conditions pursuant to Section 13 (3) and whether the proposed program structure meets the conditions pursuant to Sections 31 and 32 (1) of the Broadcasting Act and whether or not the license application is contrary to Section 17 (4) of the Broadcasting Act. It has no other discretion within these license proceedings.

PROCEEDINGS ON GRANTING A LICENSE FOR TELEVISION BROADCASTING WITH THE USE OF SATELLITES

TABLE 26- LIST OF PARTIES TO THE PROCEEDINGS WITH THE NAMES OF THE STATIONS AND THE COUNCIL DECISION - LP VIA SATELLITES

Party to the proceedings	Identification of the name of the station	Council decision
CET 21 spol. s r. o.	NOVA	license granted on November 19, 2008
Československá filmová společnost, s. r. o.	CS mini	license granted on August 26, 2008
HBO Česká republika, spol.	HBO Comedy	license granted on March 26,

Party to the proceedings	Identification of the name of the station	Council decision
s r.o		20808
HBO Česká republika, spol. s r.o	HBO	license granted on March 26, 20808
HBO Česká republika, spol. s r.o	HBO Comedy	license granted on March 26, 20808
HBO Česká republika, spol. s r.o	HBO	license granted on March 26, 20808
HBO Česká republika, spol. s r.o	CINEMAX 2	license granted on March 26, 20808
HBO Česká republika, spol. s r. o.	HBO 2	license granted on March 26, 20808
HBO Česká republika, spol. s r. o.	HBO Comedy	license granted on March 26, 20808
HBO Česká republika, spol. s r. o.	CINEMAX	license granted on March 26, 20808
HBO Česká republika, spol. s r. o.	HBO 2	license granted on December 16, 2008
HBO Česká republika, spol. s r. o.	HBO	license granted on December 16, 2008
HBO Česká republika, spol. s r. o.	HBO	license granted on December 16, 2008
HBO Pay TV, s. r. o.	HBO	license granted on March 26, 2008
HBO PP, s. r. o.	HBO	license granted on March 26, 2008
HBO PP, s. r. o.	HBO 2	license granted on March 26, 2008
HELP FILM, s. r. o.	EROX	license granted on July 1, 2008
HELP FILM, s. r. o.	REVOLUTION TV	license granted on July 29, 2008
HELP FILM, s. r. o.	NOSTALGIA MUSICA	license granted on August 26, 2008
HELP FILM, s. r. o.	FILMBOX FAMILY	license granted on September 9,

Party to the proceedings	Identification of the name of the station	Council decision
		2008
Chello Central Europe s. r. o.	SPORT2	license granted on September 23, 2008
Chello Central Europe s. r. o.	TV Paprika	license granted on September 23, 2008
Jetix Europe Channels B.V., organizační složka	Jetix	decision has not yet been rendered
Jetix Europe Channels B.V., organizační složka	Jetix	decision has not yet been rendered
Jetix Europe Channels B.V., organizační složka	Jetix	decision has not yet been rendered
Mina Media s. r. o.	MTV Adria	license granted on February 12, 2008
PLAY MEDIA s. r. o.	PLAY TV	license granted on January 8, 2008
SPORT 5 a. s.	SPORT 5	license granted on March 11, 2008

**PROCEEDINGS ON GRANTING A LICENSE FOR TELEVISION BROADCASTING
WITH THE USE OF SATELLITE AND CABLE SYSTEMS**

TABLE 27- LIST OF PARTIES TO THE PROCEEDINGS WITH THE NAMES OF THE STATIONS AND THE COUNCIL DECISION - LP VIA SATELLITES AND CABLE SYSTEMS

Party to the proceedings	Identification of the name of the station	Council decision
CET 21 spol. s r. o.	Nova sport	license granted on September 23, 2008
FTV Prima, spol. s r. o.	Prima klub	license granted on June 17, 2008
FTV Prima, spol. s r. o.	Prima 2	proceedings on granting the license have been suspended
První zpravodajská a. s.	Z1	license granted on April 8, 2008

**PROCEEDINGS ON GRANTING A LICENSE FOR TELEVISION BROADCASTING
WITH THE USE OF CABLE SYSTEMS**

TABLE 28- LIST OF PARTIES TO THE PROCEEDINGS WITH THE NAMES OF THE STATIONS AND THE COUNCIL DECISION – LP VIA CABLE SYSTEMS

Party to the proceedings	Identification of the name of the station	Council decision
AIDEM a. s.	Brno TV	license granted on February 26, 2008
BKS Capital Partners, a. s.	INFOKANÁL TELTO+	license granted on April 8, 2008
Carolinas Corporation, a. s.	Fashion TV	decision has not yet been rendered
CITYTV, s. r. o.	CITY TV	license granted on September 9, 2008
Digital Broadcasting s. r. o.	TV Telka	decision has not yet been rendered
Jiří Středa VIDEO – JS	VIDEO JS – Účko	license granted on April 22, 2008
MATTES AD, spol. s r. o.	802.TV	license granted on January 22, 2008
Telefónica O2 Services, spol. s r. o.	BK Mladá Boleslav	license granted on September 9, 2008
TPMC s. r. o.	TPMC	license granted on January 22, 2008
TV GIMI, a. s.	GIMI	license granted on April 8, 2008

**PROCEEDINGS ON GRANTING A SHORT-TERM LICENSE FOR OPERATION OF
TERRESTRIAL DIGITAL RADIO BROADCASTING IN THE T-DAB AND DAB+
FORMATS**

TABLE 29 – LIST OF PARTIES TO THE PROCEEDINGS WITH THE NAMES OF THE STATIONS AND THE COUNCIL DECISION – SHORT-TERM LICENSE FOR DIGITAL RADIO BROADCASTING IN THE T-DAB AND DAB+ FORMATS

Party to the proceedings	Identification of the name of the station	Council decision
Czech Computer, s.r.o	DANCE RADIO	license granted on September 9, 2008

RADIO PROGLAS s. r. o.	Radio Proglas	license granted on February 26, 2008
RADIO PROGLAS s. r. o.	Radio Proglas	license granted on September 9, 2008

PROCEEDINGS ON REGISTRATION OF RETRANSMISSION

A decision on registration of retransmission pursuant to Section 26 et seq. of the Broadcasting Act authorizes the operator to operate retransmission through an electronic communications network (in a cable system or via satellites or via transmitters). There is legal entitlement to registration provided that the conditions set forth in Section 27 of the Broadcasting Act are fulfilled.

RADIO AND TELEVISION RETRANSMISSION IN CABLE SYSTEMS

TABLE 30 – LIST OF NEWLY REGISTERED RADIO AND TELEVISION RETRANSMISSION OPERATORS VIA TERRESTRIAL TRANSMITTERS IN THE DVB-T SYSTEM

Party to the proceedings	Council decision
BKS Capital Partners a. s.	registered on April 22, 2008
CABEL MEDIA s. r. o.	registered on March 11, 2008
COPROSYS a. s.	registered on March 11, 2008
GRAPE SC, a. s.	registered on December 16, 2008
Jiří Ouda	registered on November 19, 2008
Planet A a. s.	registered on March 11, 2008
RIO Media a. s.	registered on December 16, 2008
Sarria spol. s r. o.	registered on July 1, 2008
SAT-AN NET s. r. o.	decision has not yet been rendered
STARNET, s. r. o.	registered on July 1, 2008
TV CABLE s. r. o.	registered on July 29, 2008
TV Tech CZ, s. r. o.	registered on February 26, 2008
WMS s. r. o.	registered on August 26, 2008

RADIO AND TELEVISION RETRANSMISSION VIA TERRESTRIAL TRANSMITTERS IN THE DVB-T SYSTEM

TABLE 31 – LIST OF NEWLY REGISTERED RADIO AND TELEVISION RETRANSMISSION OPERATORS VIA TERRESTRIAL TRANSMITTERS IN THE DVB-T SYSTEM

Party to the proceedings	Council decision
Czech Digital Group, a. s.	registered on January 22, 2008

DIFFERING OPINIONS OF THE COUNCIL MEMBERS IN ADMINISTRATIVE PROCEEDINGS ON GRANTING A LICENSE

At the 4th meeting held on February 26 to 27, 2008, the Council was making a decision in license proceedings on terrestrial digital television broadcasting disseminated via transmitters in the DVB-T system on discontinuing the proceedings and, through its resolutions, which were adopted by a majority of votes, decided pursuant to Art. IV (3) of the transitory provisions of Act No. 304/2007 Coll. on discontinuing the license proceedings on terrestrial digital television broadcasting disseminated via transmitters in the DVB-T system, File No. Ru/25/06, and similar proceedings under File No. Ru/26/06. Member of the Council Petr Pospíchal expressed a different opinion: *“Discontinuation of license proceedings that had not been closed by a final decision as of the date of effect of the amendment to Act No. 231/2001 Coll. is a mandatory instruction for voting and, at the same time, an interference with specific administrative proceedings held before an authority whose competence in the case cannot be doubted, which is probably on the very limit of acceptability of a legislative interference with the execution of State power. It is certainly not up to a member of the Council to consider compliance of legislative rules with the Constitution; however, he surely does not exceed the statutory margin for discretion when he points out the absence of any deadline for executing this statutory instruction for voting and the consequences of hasty decision-making in the matter. The hurried decision made in this case by the Council could have fundamental consequences for further procedure of digitalization in the Czech Republic. The mentioned discontinuation of the two license proceedings could be – but might be not – promptly subjected to decision-making by the Constitutional Court as regards validity of those provisions of the relevant amendment to Act No. 231/2001 Coll. that affect the relevant proceedings that have not yet been closed by a final decision and also the granting of compensation licenses for broadcasting within the DVB-T system. If the provisions of this amendment related to the mentioned aspects were to be cancelled, this could mean – in a situation where the Council hastily discontinued the two proceedings – nullification of the entire process of selection of new broadcasters for territorial digital broadcasting that has been taking place since November 2004. The primary consequence of this state of affairs would be a several-year delay in commencement of ordinary digital broadcasting by broadcasters who have enriched the current analogue program offer in terrestrial television broadcasting, where the secondary consequence could lie in arising of claims against the State on the part of those entities that first had the right to broadcast on the basis of a final decision, then gradually lost this right after complicated procedure of judicial review and finally were deprived of the rights following from proper license proceedings pursued in accordance with the Council’s statutory competence (in spite of unfinished review) by the amendment to Act No. 231/2001 Coll. I consider that, if the Council had awaited with its decision-making in the case, it would not have exceeded the limits of the statutory instruction in this case,*

even though its compliance with the Constitution has not yet been duly challenged. In contrast, it would maintain legal certainty of the affected entities. After the potential granting of compensation licenses, it would be the right time to consider whether a suitable legal and factual state of affairs has arisen for such discontinuance of the two proceedings.”

At the 10th meeting on May 20, 2008, the Council discussed an item on the agenda that was related to the license proceedings for radio broadcasting with the use of a set of technical parameters Benešov-Kozmice 89.3 MHz, 5 kW. In a resolution adopted by a majority of votes, the Council stated that it had discussed the state of the license proceedings for the frequency Benešov-Kozmice 89.3 MHz/5 kW and stated that, with respect to the pending litigation concerning distraint against the assets of one of the license applicants, the Council could not have yet closed the evaluation and comparison of the economic preparedness of the license applicants, as required by Act No. 231/2001 Coll. – for the Council to be able to comply with the statutory requirements on the license proceedings, it had to postpone the closing of the evaluation of the statutory criteria and the decision until the dispute on ordering the distraint by the court would have been resolved. Members of the Council Jiří Šenkýř and Jan Kostrhun expressed a different opinion: *“We find no reason for the Council to further postpone the decision-making on granting the license for Benešov-Kozmice 89.3 MHz for the reason of a commercial dispute between two license applicants.”*

At the 13th meeting held on July 1 and 2, 2008, within proceedings on granting a license for television broadcasting disseminated via a satellite, the Council was making a decision on granting a license to HELP FILM, s. r. o. for broadcasting of the EROX channel from 10:00 p.m. to 6:00 a.m. with the geographical area of broadcasting for the Czech Republic, Slovakia, Hungary, Poland, Romania, Bulgaria, Serbia, Croatia, Montenegro and Slovenia. In voting, the Council did not attain a qualified majority of nine votes, which is required, pursuant to Section 8 (2) of the Broadcasting Act for making a decision on granting a license and, thus, the license was not granted. Members of the Council Katarína Vaculíková, Dalibor Matulka and Václav Žák expressed a different opinion: *“Pursuant to Section 25 (5), the Council shall not grant a license to an applicant if the proposed program structure does not fulfil the requirements pursuant to Section 31 and Section 32 (1) or if the granting of a license would be at variance with the obligations following from an international agreement binding on the Czech Republic and promulgated in the Collection of Laws or Collection of International Treaties. Thus, when granting a license, the Council may base its considerations only on data stated by the applicant in the project and in the ordered oral hearing. Pursuant to Act No. 231/2001 Coll., programs that could endanger physical, mental or moral development of children and youth can be included in broadcasting from 10:00 p.m. to 6:00 a.m. It would thus have to follow from the application that a program is involved that may never be broadcast. In our opinion, neither the project nor the ordered oral hearing indicated such information and, therefore, the license should have been granted.”*

F. INFORMATION ON CHANGES IN LICENSE CONDITIONS FOR LICENSED BROADCASTERS

[SECTION 6 (1) (F) OF THE BROADCASTING ACT]

CHANGE IN CERTAIN FACTS AND CHANGE IN THE LICENSE CONDITIONS PURSUANT TO SECTION 21 AND CHANGES PURSUANT TO SECTION 20 OF THE BROADCASTING ACT

In order to make a change in the license conditions, a broadcaster with a license pursuant to the Broadcasting Act must apply for a prior written consent of the Council to this change. The Council is then obliged pursuant to Section 21 (3) to make a decision on the requested change, within a deadline of 60 days from delivery of the application.

As regards refusal of the consent, the grounds for refusal are set out in the second sentence of Section 21 (3) of the cited Act: The consent shall not be granted by the Council only if the change would cause a failure of granting the license on the basis of public hearing. The reasons for refusing the consent must be identical with the criteria referred to in Section 6 (1) (e). However, Section 6 (1) (e) refers only in general to criteria on the basis of which licenses were granted to the applicants for a license and on the basis of which applications of other parties to the proceedings were dismissed. Based on the case-law, the Council concluded that this could be particularly the criteria stipulated in Section 17 of Act No. 231/2001 Coll. or some other fact that would result in refusal of the license. This procedure was adopted in 2008 by a clear majority of administrative chambers of the Municipal Court in Prague.

When making a decision on granting consent to a change in the geographical area of broadcasting disseminated via transmitters, the Council compares, within the delimited geographical area, the program of the licensed broadcaster who has applied for the change with the current program offer in the given territory. Thus, for each proceedings on a change in the geographical area, the Council draws up an overview of channels that can be received in the territory that is to be covered by the broadcasting and this overview becomes an integral part of the reasoning of the decision on granting or non-granting the consent to a change in the geographical area of broadcasting. In case of rejecting the consent to a change in the license, it is always necessary to bear in mind the differences between license proceedings and proceedings on amendment to a license and also the context of other provisions of the Broadcasting Act.

This chapter includes, in addition to the Overview of Granted Supplementary Frequencies, a Summary Overview of Granted Frequencies, which illustrates the situation in radio broadcasting in the Czech Republic from the viewpoint of the granted basic and supplementary frequencies for all stations of licensed radio broadcasters.

The cases in which the Council refused its consent to amending a license in 2008 are related to changes in the program license conditions that would result in non-granting of the license, with respect to the criteria referred to in Section 6 (1) (e), or more specifically to criteria set out in Section 17 of the same Act (benefits of the program structure as proposed by the applicant for a license with regard to the existing variety in the offer of programs of radio or television broadcasting in the territory, which should be covered by radio or television broadcasting). Consent to a change in the license conditions was also not granted in certain cases for technical

reasons (the CTO had not provided the Council with the frequency coordinated for the private licensed broadcaster). Consent was also not granted in case of a transfer of the ownership interest to a third party that was at variance with Section 21 (6) of the Broadcasting Act.

In 2008, the Council received a total of 198 applications for a change in the license conditions, including changes pursuant to Section 20 of the Broadcasting Act, and 6 applications for extension of the term of the license.

TABLE 32 – OVERVIEW OF SUBMITTED APPLICATIONS FOR A CHANGE IN THE LICENSE CONDITIONS

provision of the Broadcasting Act		
Section 21 (1) (a)	change in the name of the channel/station	24
Section 20 (4) and Section 21 (1) (b)	change in the set of technical parameters and diagram of use of radio frequencies and a change in the geographical area of broadcasting	78
Section 21 (1) (b)	change in the time frame of broadcasting or in the geographical area of broadcasting pursuant to Section 2 (1) (y)	7
Section 21 (1) (c)	change in the geographical area of broadcasting for cable systems	7
Section 21 (1) (d)	change in the license conditions	52
Section 21 (1) (e)	change in the amount of the registered capital, the manner of distribution of voting rights, the contribution of individual shareholders (including specification and financial valuation of non-monetary contributions) or members and the amount of their ownership interests, the memorandum of association or the foundation deed, the articles of association, and the list of shareholders	30
Section 21 (6) and (7)	transfer of an ownership interest to a third party	4
Section 12 (8)	extension the term of the license	6

The Council's competence also includes registration of changes in the application of retransmission operators and, therefore, for the sake of completeness, this chapter also includes an overview of changes in retransmission operators. Retransmission operators are obliged to notify the Council of any changes in advance and the change may be effected only after having been registered by the Council. In 2008, the Council registered a total of 78 changes in registrations.

TABLE 33 – OVERVIEW OF NOTIFIED CHANGES IN THE APPLICATION FOR REGISTRATION

provision of the Broadcasting Act		
Section 29 (1) (a)	contributions of individual shareholders, amount of their ownership interests and the manner of distribution of voting rights	6
Section 29 (1) (b)	list of shareholders	4
Section 29 (1) (c)	change in the program offer	42
Section 29 (1) (d)	geographical area of broadcasting	26

CHANGES IN PROGRAM LICENSE CONDITIONS OF RADIO BROADCASTING

The Council issued consent to a change in the license conditions to 18 broadcasters on the basis of 21 applications. 8 cases involved a change in the name of the channel/station on the basis of Section 21 (1) (a) of the Broadcasting Act. In 15 cases, the change related to the license conditions on the basis of Section 21 (1) (d) of the Broadcasting Act.

The Council did not give its consent to a change in the license conditions to 2 broadcasters; in 1 case, the administrative proceedings on a change in the license conditions were discontinued, because the broadcaster failed to remedy material defects in the application within the set deadline.

OVERVIEW OF CHANGES IN LICENSE CONDITIONS APPROVED BY THE COUNCIL:

Eleanes s. r. o./Rádio mladé Valašsko

Change in the name of the station to Rádio Valašsko

RADIO LIFE s. r. o./Fajn Rádio Life

Change in the broadcasting scheme – specification of controllable parameters for news and the music format, proposal for new controllable elements (share of spoken word, news and political programs, share of Czech and Slovak musical works)

Definitely, s. r. o./Fajn Radio Hity

Change in the broadcasting scheme and controllable parameters – reduction of the share of Czech and Slovak musical works and a change in times of newscasts

MAX LOYD, s. r. o./Info DJ rádio

Change in the name of the station to radio DJ

Česká rozhlasová s. r. o./Rádio Paráda

Change in the name of the station to Radio Orlík

MEDIA Party spol. s r. o./Rádio OK

Change in the broadcasting scheme – change in the target group (from 20 to 50 years to 25 to 59 years), change in the times of newscasts

V plus P s. r. o./Rádio PRÁCHEŇ

Change in the broadcasting scheme – change in the number and times of newscasts, proposal for new controllable elements (share of Czech and Slovak musical works)

RKR s.r.o./Classic FM

Change in the broadcasting scheme and supplier of newscasts – change in the supplier of newscasts and a modification of their times

AZ Media a. s./ROCK MAX

Change in the program structure – change in the order of programs of the station, change in the structure of “moderated” (*i.e. with a host*) hours, change in the frequency of newscasts

AZ Rádio, s. r. o./AZ Rádio

Change in the program structure, change in the name of the station to Hitrádio Magic Brno – proposal for new controllable elements (share of spoken word, number and times of newscasts, share of Czech and Slovak musical works)

Agentura TRS spol. s r. o./RADIO 1

Change in the program structure – new programs, broadcasting times and order of current programs

EN-DAXI, s. r. o./Radio APOLLO

Change in the name of the station to Hitrádio Apollo, change in the share of spoken word (increase of the ceiling of 9 and 10 % of spoken word to 13 %)

4S PRODUCTION, a. s./Expres radio

Change in the program structure – reduction of the share of Czech music (from 30 % to 25 %), change in the share of spoken word on weekdays and over the weekend (instead of 12 % newly 10 to 12 % and instead of 5 % newly 4 to 6 % respectively)

RADIO ZLÍN, spol. s r. o./Radio Zlín

Change in the program structure – change in the times of newscasts, proposal for new controllable elements (share of Czech works), new programs, broadcasting times and order of the current programs

Radio Šumava s. r. o./Radio Šumava

Change in the program structure and change in the name of the program to Rock Radio Šumava – extension of the music format

Faktor, Ladislav, JUDr./Radio Faktor Gold

Change in the name of the station to Rock Radio Gold and a change in the program structure – change in the share of Czech music (from 15 % to 10-15 %), proposal for new controllable elements (number and times of newscasts)

V plus P s. r. o./Rock Rádio Prácheň

Change in the name of the station to Rock Radio Prácheň and extension of the music format

LONDA spol. s r. o./RÁDIO IMPULS

Change in the share of spoken word – consent granted to reduction of the share of spoken word from 32 % to 25-28 %)

OVERVIEW OF CHANGES IN LICENSE CONDITIONS NOT APPROVED BY THE COUNCIL

The required changes were not in conformity with the wording of the Broadcasting Act or the Council found the required change to be at variance with the declared project.

Česká rozhlasová s. r. o./Rádio Orlík

Change in the broadcasting scheme, particularly change in the percentage shares of individual music genres

EN-DAXI, s. r. o./Radio APOLLO

Change in the license conditions consisting in broadcasting of disconnected news and advertising.

OVERVIEW OF GRANTED SUPPLEMENTARY FREQUENCIES FOR 2008

TABLE 34 - OVERVIEW OF GRANTED SUPPLEMENTARY FREQUENCIES FOR 2008

Broadcaster/operat or	Identification (name) of the station	Site	Frequency	Output	Date of allocation
Česká rozhlasová s. r. o.	Radio Orlík	Písek	99.4 MHz	100 W	July 1, 2008
Česká rozhlasová s. r. o.	Radio Orlík	Orlík nad Vltavou	94.5 MHz	100 W	July 1, 2008
Česká rozhlasová s. r. o.	Radio Orlík	Strakonice	101.1 MHz	400 W	July 29, 2008
Definitely s. r. o.	Fajn Radio Hity	Valašské Meziříčí	105.2 MHz	100 W	March 11, 2008
Definitely s. r. o.	Fajn Radio Hity	Zlín	102.9 MHz	175 W	August 26, 2008
DELTA MEDIA BROADCASTING s. r. o.	Radio JIZERA 105,7 FM	Jičín	94.2 MHz	200 W	December 2, 2008

Broadcaster/operat or	Identification (name) of the station	Site	Frequency	Output	Date of allocation
Eleanes s. r. o.	Rádio Valašsko	Rožnov pod Radhoštěm	107.1 MHz	100 W	September 23, 2008
Eleanes s. r. o.	Rádio Valašsko	Vsetín	107.1 MHz	200 W	September 23, 2008
ESA-rádio, s. r. o.	Fajn radio	Jihlava	99.0 MHz	200 W	April 22, 2008
ESA-rádio, s. r. o.	Fajn radio	Havlíčkův Brod	99.7 MHz	200 W	April 22, 2008
ESA-rádio, s. r. o.	Fajn radio	Plzeň	97.1 MHz	180 W	June 17, 2008
ESA-rádio, s. r. o.	Fajn radio	České Budějovice	101.9 MHz	100 W	July 29, 2008
ESA-rádio, s. r. o.	Fajn radio	Rakovník	91.8 MHz	150 W	August 26, 2008
Foretník Pavel, RNDr.	RADIO HANÁ	Kroměříž	88.4 MHz	100 W	March 11, 2008
Foretník Pavel, RNDr.	RADIO HANÁ	Moravská Třebová	105.1 MHz	200 W	March 11, 2008
HEJL Josef	RADIO RUBI	Kroměříž	93.1 MHz	100 W	March 11, 2008
HEJL Josef	RADIO RUBI	Zlín	105.4 MHz	200 W	December 2, 2008
JUKE BOX, spol. s r. o.	RADIO ČAS - FM	Vyškov	95.8 MHz	150 W	January 8, 2008
JUKE BOX, spol. s r. o.	RADIO ČAS - FM	Luhačovice	93.8 MHz	150 W	January 8, 2008
JUKE BOX, spol. s r. o.	RADIO ČAS - FM	Valašské Klobouky	91.1 MHz	150 W	January 8, 2008
JUKE BOX, spol. s r. o.	RADIO ČAS - FM	Jeseník	91.7 MHz	100 W	January 8, 2008
JUKE BOX, spol. s r. o.	RADIO ČAS - FM	Mohelnice	103.1 MHz	200 W	January 22, 2008
JUKE BOX, spol. s r. o.	RADIO ČAS - FM	Kroměříž	96.4 MHz	150 W	March 11, 2008
JUKE BOX, spol. s r. o.	RADIO ČAS - FM	Blansko	97.7 MHz	200 W	September 9, 2008
JUKE BOX, spol. s r. o.	RADIO ČAS - FM	Uherský Brod	92.1 MHz	200 W	September 9, 2008

Broadcaster/operat or	Identification (name) of the station	Site	Frequency	Output	Date of allocation
JUKE BOX, spol. s r. o.	RADIO ČAS - FM	Brno	95.5 MHz	200 W	September 23, 2008
NONSTOP s. r. o.	RÁDIO KROKODÝL	Hodonín	95.4 MHz	100 W	September 9, 2008
North Music s. r. o.	Hitrádio FM Labe	Mělník	91.7 MHz	200 W	July 29, 2008
Radio Černá Hora II. s. r. o.	RADIO ČERNÁ HORA	Pec pod Sněžkou	87.6 MHz	20 W	April 22, 2008
Radio Černá Hora II. s. r. o.	RADIO ČERNÁ HORA	Broumov	87.6 MHz	50 W	April 22, 2008
Radio Černá Hora II. s. r. o.	RADIO ČERNÁ HORA	Harrachov	87.6 MHz	20 W	April 22, 2008
Radio Černá Hora II. s. r. o.	RADIO ČERNÁ HORA	Mladá Boleslav	87.6 MHz	100 W	April 22, 2008
Radio Černá Hora II. s. r. o.	RADIO ČERNÁ HORA	Trutnov	87.6 MHz	100 W	April 22, 2008
Radio Černá Hora II. s. r. o.	RADIO ČERNÁ HORA	Jičín	87.6 MHz	50 W	April 22, 2008
Radio Černá Hora II. s. r. o.	RADIO ČERNÁ HORA	Špindlerův Mlýn	87.6 MHz	20 W	August 26, 2008
RADIO METUJE, s. r. o.	Hitrádio Magic	Mladá Boleslav	91.7 MHz	200 W	August 26, 2008
Rádio Pálava s. r. o.	Rádio Jih	Zlín	98.0 MHz	140 W	July 1, 2008
RADIO STATION BRNO, spol. s r. o.	KISS HÁDY	Hodonín	101.1 MHz	100 W	July 29, 2008
RADIO STATION BRNO, spol. s r. o.	KISS HÁDY	Svitavy	90.8 MHz	200 W	July 29, 2008
V plus P s. r. o.	Rock Rádio Prácheň	České Budějovice	97.3 MHz	200 W	December 16, 2008

DIFFERING OPINIONS OF THE COUNCIL MEMBERS IN ADMINISTRATIVE PROCEEDINGS ON CHANGES IN LICENSE CONDITIONS OR REGISTRATION

At the 22nd meeting held on December 2, 2008, the Council became acquainted with the letter sent by the legal counsel of a group of broadcasters from the RTA network and decided on the manner of responding to the letter. More specifically: On November 10, 2008, the Council

received a letter from the legal counsel of the regional television broadcasters associated in the RTA network with questions related to the decision, whereby the Council determined that FTV Prima, spol. s r.o. was authorized on the basis of license No. 012/94 to terrestrial digital television broadcasting of the Prima televize channel in the entire territory of the Czech Republic, in the framework of any electronic communications network intended for terrestrial digital broadcasting. By its resolution, the Council approved the replies as follows.

The response to the questions as to whether the copy of the document sent by FTV Prima, spol. s r.o. to its clients reflected the actual state of affairs and whether the Council had actually adopted such a decision and also whether this Council decision was valid and effective: "This is a valid decision of the Council, which was adopted at the 3rd meeting on February 6, 2007; it continues to be effective and thus reflects the current state of affairs."

The response to the question as to the statutory authorization and competence of the Council on the basis of which the given decision was issued: "The decision was issued pursuant to Section 142 (1) of Act No. 500/2004 Coll.; operative part I. of the decision is based on Section 2 (1) (y) of Act No. 231/2001 Sb. and analogously on Section 15 (5) of Act No. 231/2001 Coll. Operative part II. is based on Art. II (1) of Act No. 235/2006 Coll. in conjunction with Section 24a of Act No. 231/2001 Coll., in the wording prior to the effect of Act No. 235/2006 Coll."

The response to the question as to why regional television broadcasters operating on frequencies shared with FTV Prima, spol. s r.o., i.e. FATEM – TV, a. s., RTA OSTRAVA s. r. o., RTA ZLÍN, s. r. o., RTA JIŽNÍ ČECHY, s. r. o. and RTA VÝCHODNÍ ČECHY, s. r. o., were not informed of the commencement of the given proceedings and were not treated as parties to the proceedings: "The given proceedings concerned exclusively FTV Prima spol. s r.o., which was thus the only party to the proceedings. The potential participation of the regional television broadcasters associated within the RTA network in these proceedings would have no effect on their rights and obligations, as the proceedings were concerned exclusively with determination of the legal relationships of FTV Prima, spol. s r. o.

The response to the question as to what rights and obligations follow from the relevant Council decision for FTV Prima, spol. s r. o. and the individual regional television broadcasters on the shared frequencies: "By decision of the Council File No. 2007/48/cun/FTV of February 6, 2007, it is determined that FTV Prima, spol. s r.o. is authorized, on the basis of license No. 012/94, to terrestrial digital television broadcasting of the Prima televize channel in the entire territory of the Czech Republic, in the framework of any electronic communications network intended for terrestrial digital broadcasting. The individual broadcasters incur no rights and obligations from this decision."

The response to the question as to the relation of this decision to earlier decision of the Council Ref. No. Rz/229/05 of November 23, 2005, whereby the Council stipulated, for the broadcaster, FTV Prima, spol. s r.o., within license No. 012/1994, the geographical area of territorial digital broadcasting within the DVB-T system for network B (note: current network 3): "This decision determines that FTV Prima, spol. s r. o. became, on the basis of decision of the Council Ref. No. Rz/229/05 of November 23, 2005, for the purposes of Art. II (1) of Act No. 235/2006 Coll., a licensed broadcaster with extended license."

Members of the Council Dalibor Matulka, Daniel Novák and Jan Kostrhun expressed a different opinion: "We do not agree with the part of the response with respect to the question as to why regional television broadcasters operating on frequencies shared with FTV Prima, spol. s r.o., i.e. FATEM – TV, a. s., RTA Ostrava s. r. o., RTA Zlín, s. r. o., RTA Jižní Čechy, s. r. o. and RTA Východní

Čechy, s. r. o., were not informed of the commencement of the given proceedings and were not treated as parties to the proceedings. We believe that the mentioned companies should have been treated as parties to the proceedings. If the Council decided that these companies should not be parties to the proceedings, it should have decided to this effect through a separate resolution, which was not the case. Therefore, the Council's procedure was incorrect."

G. INFORMATION ON PROMOTION OF EUROPEAN WORKS AND EUROPEAN INDEPENDENT WORKS IN TELEVISION BROADCASTING, ON COMPLIANCE WITH THE RATIO OF EUROPEAN WORKS (SECTION 42) AND EUROPEAN INDEPENDENT WORKS (SECTION 43), AND ON THE REASONS FOR NON-COMPLIANCE, IF APPROPRIATE

[SECTION 6 (1) (G) OF THE BROADCASTING ACT]

The requirements for representation of European works in broadcasting are stipulated in Sections 42 to 44 of the Broadcasting Act. According to these requirements, where feasible, the broadcaster is obliged to reserve over one half of the total broadcasting time for European works. 10% of the total broadcasting time must be reserved for independent European works. The time reserved for broadcasting of newscasts, sports events, competitions, teletext, advertising and teleshopping is excluded from the total broadcasting time.

The third requirement is aimed at support for contemporary production, where the broadcaster is obliged to ensure that the broadcasting of the works first made public less than 5 years ago represents at least 10% of the broadcasting time reserved for the broadcasting of European works produced by independent producers.

RESULTS OF CONTROL

For the purposes of evaluation of fulfilment of the requirements for representation of European and European independent works in the broadcasting of Czech television broadcasters, the Council requested data from nationwide television broadcasters, from regional television broadcasters and from television broadcasters broadcasting via satellites. This did not include technical channels that were not subject to the relevant quotas, i.e. channels concentrating exclusively on news, sports and teleshopping.

Furthermore, the broadcasters were requested to provide data on Czech works broadcast in 2008, based on Section 47 (d) of the Broadcasting Act, which imposes on the broadcasters the duty to provide the Council with data on the number and footage of broadcast Czech works.

NATIONWIDE BROADCASTERS

TABLE 35 - STATISTICS OF THE RATIO OF EUROPEAN WORKS AND EUROPEAN INDEPENDENT AND CONTEMPORARY INDEPENDENT WORKS IN BROADCASTING DURING THE PERIOD FROM JANUARY TO DECEMBER 2008 – NATIONWIDE BROADCASTERS

Broadcaster/television channel	CET 21 spol. s r. o./Nova	FTV Prima s. r. o./Prima televize	Czech Television/CT 1	Czech Television/CT 2
European works	52 %	46.6 %	80.8 %	87.8 %
Independent European works	22.2 %	19.4 %	19.8 %	18.8 %
Contemporary independent works	27 %	85.6 %	59.3 %	68.1 %
Czech works/in hours/in per cent	2266 hours 35.1 %	1622 hours 26.3 %	6524 hours 74.3 %	6109 hours 69.5 %

On the basis of the data provided by the nationwide television broadcasters, it can be stated that the channels of Czech Television, i.e. CT1 and CT2, and also the Nova channel fulfil all the required indicators.

With respect to the Prima televize channel, it was ascertained that, in 2008, it did not fulfil the fifty-percent quota for broadcasting European works. The broadcaster justifies this fact by a coincidence of several unfavourable circumstances. First, the broadcaster was unable to purchase some works for its program, particularly Czech works, which it intended to broadcast in the first half of the year 2008; furthermore, there was a substantial delay in the preparation of the Ošklivka Katka series and also reduction of the originally planned scope of broadcasting. These facts had an unfavourable impact on the summary data on the ratio of European works in the broadcasting of the Prima televize channel. Nevertheless, the broadcaster adds that, if “unpublished” programs (jingles, transitions, trailers) were counted, the fifty-percent quota would have been attained. The ratio of European works would then equal 50.7 %. However, inclusion of selfpromotion in the total ratio of European works is not in full conformity with Section 42 of the Broadcasting Act, which states that the total broadcasting time on the basis of which the proportion of European works is determined shall not be deemed to include the time of broadcasting news and reporting broadcasts, sports events, games, teletext, advertising and teleshopping. Within the meaning of the Broadcasting Act, selfpromotion constitutes advertising and, therefore, it cannot be included in the total broadcasting time.

Furthermore, the broadcaster, FTV Prima, spol. s r.o., states that, after appointment of the new program director, Mr. Gordon Lovitt, the problems related to the non-fulfilment of the quota were resolved and the ratio of European works in the broadcasting will be increased in 2009.

The Council will address the issue of failure to comply with the fifty-percent quota for European works in broadcasting of the Prima televize channel within its competence at one of its first meetings in 2009.

In classification of works in the list of European works, all nationwide broadcasters proceed according to the methodology that was implemented in the previous years. The figures correspond to the supplied documents and ad hoc control of the classified works showed no shortcomings.

TELEVISION BROADCASTERS BROADCASTING BY MEANS OF SATELLITES

TABLE 36 - STATISTICS OF THE RATIO OF EUROPEAN WORKS AND EUROPEAN INDEPENDENT AND CONTEMPORARY INDEPENDENT WORKS IN BROADCASTING DURING THE PERIOD FROM JANUARY TO DECEMBER 2008 - TELEVISION BROADCASTERS VIA SATELLITE

Broadcaster/television channel	European works	Independent European works	Contemporary independent works	Czech works/in hours/in per cent
CET 21 spol. s r. o./Nova Cinema	31.1 %	30.5 %	38 %	368 hours 8 %
Česká programová společnost spol. s r. o./Spektrum	66 %	44 %	84 %	23 hours 0.33 %
Československá filmová společnost, s. r. o./CS film a CS mini	data not provided	data not provided	data not provided	data not provided
HBO Česká republika, spol. s r. o./HBO (Czech Republic, Slovak Republic)	25.2 %	15.7 %	98.4 %	412 hours 5 %
HBO Česká republika, spol. s r. o./HBO 2 (Czech Republic, Slovak Republic, Hungary)	23 %	14.7 %	98 %	0
HBO Česká republika, spol. s r. o./HBO (Poland)	25.8 %	16.5 %	94.8 %	15.5 hours 0.19 %
HBO Česká republika, spol. s r. o./HBO 2 (Poland)	30.4 %	20.4 %	98.1 %	13.5 hours 0.16 %
HBO Česká republika, spol. s r. o./HBO COMEDY (Poland)	34.6 %	20.2 %	95.3 %	0
HBO Česká republika, spol. s r. o./HBO (Bulgaria, Croatia, Slovenia, Serbia, Montenegro)	21.8 %	12 %	94 %	0
HBO Česká republika, spol. s r. o./Cinemax, Cinemax 2	33.6 %	21.5 %	68.1 %	0

Broadcaster/television channel	European works	Independent European works	Contemporary independent works	Czech works/in hours/in per cent
HBO Česká republika, spol. s r. o./HBO COMEDY (Bulgaria, Croatia, Slovenia, Serbia, Montenegro)	30.7 %	18.2 %	88.7 %	0
HBO Česká republika, spol. s r. o./HBO COMEDY (Czech Republic, Hungary, Moldavia, Romania, Slovak Republic)	29.4 %	19.8 %	94.7 %	0
HBO Česká republika, spol. s r. o./HBO (Hungary)	24.4 %	13.9 %	98.3 %	15.5 hours 0.19 %
HBO Česká republika, spol. s r. o./HBO (Romania, Moldavia)	25.9 %	16.2 %	95.8 %	0
HELP FILM, s. r. o./FilmBox	47.9 %	47.9 %	10.9 %	1003 hours 16.6 %
HELP FILM, s. r. o./FilmBox HD	22.7 %	22.7 %	14.8 %	0 hours 0 %
HELP FILM, s. r. o./FilmBox Extra	39.2 %	39.2 %	29.3 %	0 hours 0 %
HELP FILM, s. r. o./Nostalgia	100 %	100 %	0 %	1098 hours 100 %
Chello Central Europe s. r. o./Minimax	84 %	80 %	24 %	8 hours 0.16 %
Chello Central Europe s. r. o./TV Paprika	85 %	76 %	80%	39 hours 5 %
MaxiFilm&TV s. r. o./Da Vinci	60 %	81 %	data not provided	data not provided
SAT Plus, s. r. o./FUN 1	data not provided	data not provided	data not provided	data not provided

Broadcaster/television channel	European works	Independent European works	Contemporary independent works	Czech works/in hours/in per cent
Stanice O, a. s./Óčko	data not provided	data not provided	data not provided	data not provided
TELEPACE s. r. o./TV NOE	data not provided	data not provided	data not provided	data not provided
Totalpress, s. r. o./PUBLIC TV	87 %	4.9 %	the provider provided incorrect data	the provider provided incorrect data

Note: The overview also includes channels that commenced broadcasting in 2008 (Nostalgia, TV Paprika). Therefore, the data for these channels do not relate to the entire year 2008.

Every year, the creation of an overview of compliance with the quota for broadcasting European works, European independent works and contemporary independent works faces the problem related to non-uniform system of keeping records, processing and evaluating underlying data by the individual broadcasters. While some experienced broadcasters provided full and accurate data for 2008, such as HBO Česká republika, s. r. o., some broadcasters provided data that were incorrectly calculated (Totalpress, s. r. o.), which probably follows from inadequate understanding of the requirements of the law, while other broadcasters did not provide the data at all (Československá filmová společnost, s. r. o., SAT Plus, s. r. o., Stanice O, a. s., TELEPACE s. r. o.). Those broadcasters who provided the Council with incomplete data or did not provide them at all will be notified by the Council of violation of the provisions of the law that require the broadcasters to provide data to the Council (Section 47 (1) of the Broadcasting Act) and those broadcasters who have already been notified of the same violation of the law will be penalized by a fine.

Fulfilment of the requirements of the law for the ratio of European works, European independent works and contemporary independent works in the broadcasting of channels disseminated via satellites is problematic, particularly with respect to the specialization of certain programs, which hinders or even prevents the fulfilment of the quotas from the outset. This is particularly true for film channels oriented on the works of Hollywood studios (channels of the broadcaster, HBO Česká republika, s. r. o., channels FilmBox Extra and FilmBox HD of the broadcaster, HELP FILM, s. r. o., and the Nova Cinema channel of the broadcaster, CET 21 spol. s r. o.). These broadcasters have a lower percentage ratio of European works stipulated in their license conditions.

Pursuant to the license conditions, the channels broadcast by the broadcaster, HBO Česká republika, s. r. o., should include at least 10 % of European works, or in some cases 12 %, and also at least 5 % of European independent works and 10 % of contemporary independent works (in this case, this relates to the statutory quota). It should be stated that the broadcaster, HBO Česká republika, s. r. o., fulfils the quotas defined by the license conditions and even substantially exceeds them. While it does not fulfil the standard stipulated by the law for the ratio of European

works in broadcasting, it came much closer to the limit compared to the previous years. While in 2007 this broadcaster reached the highest ratio of European works within its HBO Comedy channel in Poland, 24.7 %, in 2008, the ratio of European works on this channel equalled 34.6 %. On an average, the broadcaster reached an interannual increase in the ratio of European works in its channels by 8 %. By the volume of the broadcast European independent works and contemporary independent works, the broadcaster fulfils both the license conditions and the statutory requirements. It is worth noting that European independent works equal, on an average, 93 % of independent works on the channels of the broadcaster, HBO Česká republika, s. r. o., which is based on the fact that this broadcaster generally concentrates on most recent film works.

Failure to fulfil both the requirements of the law and the license conditions was ascertained in broadcasting by the broadcaster, HELP FILM, s. r. o., specifically on the FilmBox channel. According to the license conditions, the broadcasting by this broadcaster should contain 30 % European works and 30 % Czech and Slovak works. However, in reality, the total European works equalled only 47.9 % and, separately, Czech works, 16.6 % of the programs on this channel. Given the fact that the broadcaster thus violated the license conditions, the Council will deal with this issue in administrative proceedings. Other programs of the broadcaster, HELP FILM, s. r. o., FilmBox HD and FilmBox Extra, also do not comply with the statutory requirement related to the volume of European works, but they fulfil, in case of the FilmBox Extra channel even two-fold, the conditions of the granted license (on both channels, European works should equal approx. 20 % according to the license). And, finally, the data for the last channel of this broadcaster, Nostalgia, fully correspond with the profile of this program. This channel concentrates on old Czechoslovak film works. This corresponds to a 100% ratio of European works and also absolute lack of contemporary works in the broadcasting.

The channel of the broadcaster, CET 21 spol. s r.o., Nova Cinema, fulfils the statutory requirements for the ratio of European independent works and also contemporary independent works; nevertheless, it does not comply with the statutory quota for the ratio of European works in broadcasting. This can be explained by the fact that a thematic film channel is involved, which specializes, according to the license, on American audiovisual works.

It can be considered very unfavourable that there was an increase in the number of broadcasters who failed to provide any data at all data on fulfilment of the quotas for 2008 (Československá filmová společnost, s. r. o., SAT Plus, s. r. o., Stanice O, a. s., TELEPACE s. r. o.). Indeed, neither of these broadcasters is a newcomer who could be surprised by the Council's requirement. All the mentioned broadcasters already provided the relevant data in the previous years.

Excusable are, to a certain degree, shortcomings in the reports provided by those broadcasters who prepared the data for the first time (MaxiFilm&TV s. r. o., Totalpress, s. r. o.). For inexperienced broadcasters, the compilation of an extreme volume of data and creation fo the relevant outputs can be difficult; therefore, the broadcasters in whose data shortcomings were found will be advised of the correct way of recording and subsequently evaluating the data.

REGIONAL TERRESTRIAL BROADCASTERS

TABLE 37 - STATISTICS OF THE RATIO OF EUROPEAN WORKS AND EUROPEAN INDEPENDENT AND CONTEMPORARY INDEPENDENT WORKS IN BROADCASTING DURING THE PERIOD FROM JANUARY TO DECEMBER 2008 – REGIONAL TERRESTRIAL BROADCASTERS

Broadcaster/television channel	European works	Independent European works	Contemporary independent works	Czech works
RTA ZLÍN, s. r. o./RTA ZLÍN	100 %	Not broadcast as this is not allowed by the license conditions	Not broadcast as this is not allowed by the license conditions	100 %
FATEM - TV a. s./RTA JIŽNÍ MORAVA	100 %	Not broadcast as this is not allowed by the license conditions	Not broadcast as this is not allowed by the license conditions	100 %
GENUS TV a. s./R1 GENUS TV	100 %	86.3 %	100 %	100 %
RTA JIŽNÍ ČECHY, s. r. o./RTA JIŽNÍ ČECHY	100 %	Not broadcast as this is not allowed by the license conditions	Not broadcast as this is not allowed by the license conditions	100 %
Regionální televize DAKR, s. r. o./R1 DAKR	100 %	58.6 %	100 %	100 %
RTA Ostrava s. r. o./RTA OSTRAVA	100 %	Not broadcast as this is not allowed by the license conditions	Not broadcast as this is not allowed by the license conditions	100 %
Českomoravská televizní, s. r. o./R1 Vysočina	100 %	91.3 %	100 %	100 %
TV LYRA s. r. o./R1 Lyra	100 %	60.9 %	100 %	100 %
TV MORAVA, s. r. o./R1 MORAVA	100 %	46.1 %	100 %	100 %
TV Vřídlo s. r. o./R1 Vřídlo	100 %	46.4 %	100 %	100 %
RTA VÝCHODNÍ ČECHY, s. r. o./RTA VÝCHODNÍ ČECHY	100 %	Not broadcast as this is not allowed by the license conditions	Not broadcast as this is not allowed by the license conditions	100 %
ZAK TV s. r. o./R1 ZAK	100 %	75.7 %	100 %	100 %

The data provided by regional broadcasters indicate the specificity of this type of broadcasting. All programs broadcast by these broadcasters are Czech and, therefore, also the share of European works must equal 100 %.

Regional broadcasters can be divided to two groups. First consists of broadcasters who operate under the uniform designation RTA (including broadcaster FATEM-TV a.s.), while the other encompasses the remaining broadcasters who broadcast in cooperation with FTV Prima, spol. s r.o.

The broadcasters in the RTA group stated in response to the request for information that, in 2008, they broadcast no European works produced by independent authors and, thus, also no such works younger than five years, as this was not allowed by their license conditions. This argument must be accepted. These broadcasters broadcast on the basis of similar license conditions, which include solely programs produced by them and programs produced in co-production and do not envisage the purchase of programs from independent producers.

On the contrary, regional broadcasters who broadcast in cooperation with FTV Prima, spol. s r.o. included in their broadcasting, to a various degree, programs purchased from Czech independent producers. It must be emphasized in this relation that the summary data include only quotable programs and, therefore, it excludes, e.g. newscasts, which are prepared by the broadcasters themselves and that cannot be included in the provided overviews.

Broadcasting by regional broadcasters is specific as regards its contents; this is also reflected by the quantification of the ratios of European works, European independent works and contemporary independent works in their programs. Given the fact that broadcasting by these broadcasters is strictly defined by the license conditions, no substantial change is likely to occur with respect to the individual shares in their programs.

The annual evaluation of data on compliance with the ratios of European works, European independent works and contemporary independent works encounters similar problems. In addition to inadequate records and incorrect processing of underlying documents by some broadcasters, this relates particularly to substantially limited possibility of checking the supplied data. Although a majority of the relevant broadcasters provide summary surveys of all broadcast programs, where they provide information on the footage, the country of origin, the producer, etc., it is almost impossible to verify all these data. The selection of programs that can be subject to quotas, i.e. programs that are included in the total volume of broadcast programs, based on which the individual relevant shares are quantified, is also problematic. Given the very rapid developments in the area of television broadcasting, which continuously brings new formats of programs, it is practically impossible to create a comprehensive database of programs that could be subjected to quotas. Due to the lack of uniformity in evaluation, the outputs of the individual broadcasters cannot be fully compared. However, this problem is encountered, not only by the Council for Radio and Television Broadcasting, but also by a number of similar bodies in other countries of the European Union.

H. DRAFT MEASURES REFLECTING NEW TECHNOLOGIES IN THE AREA OF RADIO AND TELEVISION BROADCASTING

[SECTION 6 (1) (H) OF THE BROADCASTING ACT]

From the viewpoint of new technologies, the year 2008 did not bring any revolutionary changes from the viewpoint of listeners and viewers. However, from the viewpoint of the regulatory authority, there was a certain positive development related to the Czech application of “videologging”, i.e. a technology allowing for specific search in videofiles. This is a technology that forms the basis for monitoring systems. Foreign applications, particularly by the Virage company, which are able to provide instruments for high-performance monitoring systems, have prevailed to date. It is known that the Council has proposed to use the EU funds to purchase a monitoring system that could serve for the needs of several sectors. Entry of Czech companies to this field could lead to reduction in the costs of the monitoring system.

I. PROVISION OF INFORMATION PURSUANT TO ACT NO. 106/1999 COLL., ON FREE ACCESS TO INFORMATION

[SECTION 6 (1) (I) OF THE BROADCASTING ACT]

The procedure and manner of provision of information by means of publication, as well as the procedure and manner of dealing with requests for provision of information are regulated by Act No. 106/1999 Coll., on free access to information (hereinafter the Act on Provision of Information) and also by the methodical instruction for unifying the procedure of the public administrative bodies in this relation pursuant to Annex 1 of Government Resolution No. 875/2000.

Pursuant to Section 18 of the Act on Provision of Information, each obliged entity must publish, by March 1 of every year, an annual report for the preceding calendar year concerning its activities in the area of provision of information pursuant to the mentioned Act, including the following data:

- ✓ number of requests for information lodged and the number of decisions rejecting the request rendered;
- ✓ number of appeals lodged against the decision;
- ✓ copy of substantial parts of each court judgment related to review of legality of the decision of the obliged entity on rejecting a request for information and an overview of all expenditures incurred by the obliged entity in relation to litigations on the rights and obligations under the Act, including costs of its own personnel and costs of legal representation;
- ✓ overview of exclusive licenses provided, including justification of the need for providing an exclusive license;
- ✓ number of complaints lodged pursuant to Section 16a, the reasons for their lodging and a brief description of the manner of resolving thereof;
- ✓ further information related to application of the Act.

The Council publishes basic information pursuant to Section 5 of the above-cited Act both on the official desk located at its seat, as well as on the official desk allowing for remote access, at www.rrtv.cz (reference to the official desk).

In 2008, the Council received 10 requests for information pursuant to the Act on Provision of Information. In one case, the Council did not satisfy the request. The applicant then lodged a complaint against the Council's procedure with the Ombudsman.

A total of 1,827 written documents were delivered to the Council in 2008; the Council dealt with these documents within its activities. In addition to technical inquiries and questions related to the concession fees, these were most often complaints against the contents of television broadcasting. A total of 175 inquiries lay outside the Council's competence.

No public petition was delivered to the Council in 2008.

TABLE 38 – OVERVIEW OF CORRESPONDENCE 2009 (2008? – TRANS.)

OVERVIEW OF CORRESPONDENCE 2009 (2008? – TRANS.)	Total
Number of submissions and requests for information, including a request for information referring explicitly to Act No. 106/1999 Coll.	1827
Number of petitions	0
of which:	
Number of requests for information referring explicitly to Act No. 106/1999 Coll.	10
Number of instigations and complaints outside the competence of the Council	175

The following overview clearly indicates which topics in broadcasting were found by the authors of the letters to be most problematic.

TABLE 39 – OVERVIEW OF TOPICS FOUND TO BE MOST PROBLEMATIC

	classified according to type	number of submissions
1.	objectivity/balance of disclosed information	371
2.	program – changes in program, ratio of domestic/foreign works, selection of programs for various target groups	228
3.	advertising unsuitable for children/surreptitious, misleading, subliminal	215
4.	danger to moral or physical development of children and youth	211
5.	level/professional conduct by the moderator	142
6.	vulgar expressions/vulgar presentation of sex	90
7.	presentation of violence, inciting to hatred against race, sex or religion	64
8.	depiction of tortured/dying persons	45

Substantially less correspondence from viewers and listeners was delivered to the Council in 2008 compared to the previous year. This phenomenon of rapid substantial increase or decrease in the volume of correspondence is always dependent on new or substantially different elements of broadcasting.

In the preceding years, the correspondence related, e.g., to the subject of reality shows; last year, the Council noted a high number of complaints against regional television channels entering the program of Prima televize. This year, e.g., a smaller wave of disagreement amongst viewers was caused by a change in the CRo 1 – Radiožurnál channel.

CHART 7 - OVERVIEW OF THE TRENDS IN CORRESPONDENCE DELIVERED TO THE COUNCIL IN THE 2004-2008 PERIOD

