

Parliament of the Czech Republic

## Chamber of Deputies

2006

4<sup>th</sup> Electoral Term

---

1263

# **REPORT ON THE STATE OF BROADCASTING AND THE ACTIVITY OF THE COUNCIL FOR RADIO AND TELEVISION BROADCASTING**

**for 2005**

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  
4<sup>th</sup> meeting on February 14,  
2006 through a resolution concerned with item 03 on the agenda

## Table of contents

<b>A. CURRENT LIST OF BROADCASTERS AND RETRANSMISSION OPERATORS</b>	<b>5</b>
Types of broadcasting based on a license	5
Types of broadcasting based on registration	5
Types of broadcasting based on a special law	5
Alphabetical List of Broadcasters and Retransmission Operators	6
<b>B. INFORMATION ON THE SITUATION IN RADIO AND TELEVISION BROADCASTING AND RADIO AND TELEVISION</b>	<b>12</b>
<b>C. INFORMATION ON COMPLIANCE WITH LEGAL REGULATIONS IN THE AREA OF RADIO AND TELEVISION BROADCASTING AND ON IMPOSED PENALTIES</b>	<b>21</b>
Legislation on radio and television broadcasting	21
Survey of activities carried out by the Council on the basis of the aforementioned legal regulations	21
<b>D. INFORMATION ON THE RESULTS OF CONTROL OF COMPLIANCE WITH THE DUTIES STIPULATED IN THE BROADCASTING ACT AND THE CONDITIONS IMPOSED ON BROADCASTERS AND RETRANSMISSION OPERATORS</b>	<b>25</b>
Information on the applied provisions of the Act, on the controlled parameters of licenses, on the scope of monitoring and on the methodology of analysis of the contents	25
Imposing penalties for breach of duties stipulated in the Broadcasting Act	26
Survey of notices and fines for breach of duties stipulated in the Broadcasting Act	27
Survey of notices and fines for breach of duties stipulated in the Advertising Act	30
Big Brother and VyVolení reality shows	35
<b>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</b>	<b>41</b>
Proceedings on granting a license for radio and television broadcasting by means of terrestrial transmitters	42
Renewed license proceedings with respect to the set of technical parameters of the Prague – Vinohrady 89.0 MHz/0.158 kW frequency	44
Proceedings on granting a license for radio and television broadcasting by means of satellites and cable systems	49
Aspects of participation of cities and municipalities in proceedings on granting a license and registration	50
<b>F. INFORMATION ON CHANGES IN LICENSE CONDITIONS FOR LICENSED BROADCASTERS</b>	<b>51</b>
Changes in certain parameters and changes in the license conditions	51
Changes in license conditions of radio programs	51
Changes in license conditions of television broadcasting	52
<b>G. INFORMATION ON PROMOTION OF EUROPEAN WORKS AND EUROPEAN INDEPENDENT WORKS IN TELEVISION BROADCASTING, ON COMPLIANCE WITH THE RATIO OF EUROPEAN WORKS AND EUROPEAN INDEPENDENT WORKS, AND ON THE REASONS FOR NON-COMPLIANCE, IF APPROPRIATE</b>	<b>54</b>
Other promotion of European independent and contemporary works	56

<b>H. INFORMATION ON USE OF THE FREQUENCY RANGE INTENDED FOR RADIO AND TELEVISION BROADCASTING</b>	<b>58</b>
Description of the frequency range	58
Use of the frequency range	59
Considerations related to the capacity of the frequency range in digital broadcasting	59
 ALLOCATION OF FREQUENCY BANDS IN THE CZECH REPUBLIC	 62
<b>I. DRAFT MEASURES REFLECTING NEW TECHNOLOGIES IN THE AREA OF RADIO AND TELEVISION BROADCASTING</b>	<b>63</b>
Electronic Program Guide (EPG)	64
 <b>PROVISION OF INFORMATION PURSUANT TO ACT NO. 106/1999 COLL., ON FREE ACCESS TO INFORMATION</b>	 <b>66</b>
Instigations, complaints, petitions, provision of information	66
Provision of information pursuant to Act No. 106/1999 Coll., on free access to information	68

## A. CURRENT LIST OF BROADCASTERS AND RETRANSMISSION OPERATORS [SECTION 6 (1) (A) OF THE BROADCASTING ACT]

The following list of broadcasters and 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 operate 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.

satellite radio
satellite television
cable systems and satellites
radio cable systems and satellites
television cable systems and satellites
radio cable systems
television cable systems
short-term local terrestrial DVB-H (DVB-digital broadcasting, H-allowing for transmission of television broadcasting to mobile terminals)
short-term local terrestrial television broadcasting
nationwide terrestrial radio broadcasting
nationwide terrestrial radio broadcasting, DVB-T (DVB-digital broadcasting, T-terrestrial)
local terrestrial radio broadcasting
nationwide DVB-T terrestrial television broadcasting
local terrestrial television broadcasting
local terrestrial television broadcasting with regional scope

### 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.

short-term local terrestrial retransmission
MMDS retransmission (MMDS – multichannel distribution system allowing for wireless transmission from the transmitter to the users; the system replaces transmission in classical cable systems in places, where building a television cable system is either difficult or impossible)
retransmission in cable systems
retransmission in MMDS cable systems
DVB-T terrestrial retransmission

### Types of broadcasting based on a special law

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

television broadcasting transmitted via terrestrial transmitters and DVB-T on the basis of a special law
--

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

radio broadcasting transmitted via terrestrial transmitters and DVB-T on the basis of a special law
---

## Alphabetical List of Broadcasters and Retransmission Operators

Broadcaster/operator	Type of broadcasting
1. EUROPEAN TELEVISION, s.r.o.	satellite television
3C spol. s r.o.	television cable systems
	retransmission in cable systems
4M Rožnov, spol. s r.o.	television cable systems
	retransmission in cable systems
4S PRODUCTION, a.s.	local terrestrial radio broadcasting
AEL Communications ČR s.r.o.	television cable systems
Agentura TRS spol. s r.o.	local terrestrial radio broadcasting
AMOS, v.o.s.	television cable systems
	retransmission in cable systems
AnSat - TKR s.r.o.	retransmission in cable systems
ANTÉNY 2H+B spol. s r.o.	retransmission in cable systems
Antény DAKR, spol. s r.o.	retransmission in cable systems
AQUA, a.s.	television cable systems
	retransmission in cable systems
ASPERA TV, s.r.o.	television cable systems
AV- PARK s.r.o.	television cable systems
AZ - MEDIA s.r.o.	television cable systems
AZ Media a.s.	local terrestrial radio broadcasting
AZ Rádio, s.r.o.	local terrestrial radio broadcasting
B.H. Centrum a.s.	television cable systems
	retransmission in cable systems
BBC Radiocom (Praha) s.r.o.	local terrestrial radio broadcasting
	satellite radio
Blecha, Zdeněk	retransmission in cable systems
BROAD ROAD a.s.	television cable systems
BROADCAST MEDIA, s.r.o.	local terrestrial radio broadcasting
BUSSMARK PRODUCTION s.r.o.	retransmission in cable systems
Bytové a tepelné hospodářství Bučovice, s.r.o.	television cable systems
	retransmission in cable systems
CABTEL mont ZLÍN, s.r.o.	television cable systems
	retransmission in cable systems
CALL TV s.r.o.	cable systems and satellites
CATR, spol. s r.o.	retransmission in cable systems
CentroNet, a.s.	retransmission in cable systems
Centrum nezávislé kultury Palác Akropolis, a.s.	radio cable systems
CET 21 spol. s r.o.	DVB-T terrestrial television broadcasting
CITY MULTIMEDIA s.r.o.	local terrestrial radio broadcasting
CODIS, a.s.	retransmission in cable systems
COMTES CZ spol. s r.o.	retransmission in cable systems
CORSAT s.r.o.	retransmission in cable systems
COUNTRY RADIO s.r.o.	local terrestrial radio broadcasting
Czech Digital Group, a.s.	DVB-T terrestrial
CZECH INFOLINE s.r.o.	television cable systems
	retransmission in cable systems
Česká národní televizní společnost, spol. s r.o.	retransmission in cable systems
Česká programová společnost spol. s r.o.	satellite television
ČESKÁ TELEVIZE	DVB-T terrestrial television broadcasting
ČESKÉ RADIOKOMUNIKACE a.s.	DVB-T terrestrial retransmission
Českomoravská televizní, s.r.o.	local terrestrial television broadcasting with regional scope

ČESKOMORAVSKÉ RÁDIO s.r.o.	local terrestrial radio broadcasting
Československá filmová společnost, s.r.o.	satellite television
ČESKÝ ROZHLAS	DVB-T terrestrial radio broadcasting
ČESKÝ TELECOM ,a.s.	retransmission in cable systems
Definitely s. r. o.	local terrestrial radio broadcasting
DELTA MEDIA BROADCASTING s.r.o.	local terrestrial radio broadcasting
ELDORADIO s.r.o.	local terrestrial radio broadcasting
ELMA KLADNO, s.r.o.	retransmission in cable systems
ELSAT, spol. s r.o.	television cable systems
	retransmission in cable systems
ELTRIS, s.r.o.	retransmission in cable systems
EMURFILM, s.r.o.	local terrestrial television broadcasting with regional scope
EN-DAXI, s.r.o.	local terrestrial radio broadcasting
ENECOS, s.r.o.	television cable systems
	retransmission in cable systems
ESA-rádio, s.r.o.	local terrestrial radio broadcasting
EVROPA 2, spol. s r.o.	local terrestrial radio broadcasting
F.C.A., a.s.	television cable systems
	retransmission in cable systems
FAJFRONT BS, s.r.o.	local terrestrial radio broadcasting
Faktor, Ladislav, JUDr.	local terrestrial radio broadcasting
FATEM - TV, a.s.	local terrestrial television broadcasting with regional scope
Florián, Jiří	television cable systems
	retransmission in cable systems
Forcable s.r.o.	television cable systems
FORCOM NET, s.r.o.	retransmission in cable systems
Foretník, Pavel, RNDr.	local terrestrial radio broadcasting
FRANEL MUSIC, v.o.s.	television cable systems
FRANTIŠEK VOSTÁL s.r.o.	local terrestrial radio broadcasting
Frekvence 1, a.s.	DVB-T terrestrial radio broadcasting
Fridrich, Ivo	retransmission in cable systems
FTV Prima, spol. s r.o.	DVB-T terrestrial television broadcasting
	local terrestrial television broadcasting with regional scope
	satellite television
Galaxie sport, s.r.o.	television cable systems and satellites
GENUS TV a.s.	local terrestrial television broadcasting with regional scope
GIMI, spol. s r.o.	local terrestrial television broadcasting with regional scope
Grundig, spol. s r.o.	television cable systems
HB TV spol. s r.o.	television cable systems
	retransmission in cable systems
HBO Česká republika, spol. s r.o.	satellite television
HBO Pay TV, s.r.o.	satellite television
HBO PP, s.r.o.	satellite television
Heindl, Jaroslav	television cable systems
Hejl, Josef	local terrestrial radio broadcasting
HELLAX spol. s r. o.	local terrestrial radio broadcasting
HELP FILM, s.r.o.	satellite television
Horák, Petr	television cable systems
Chlad, Bohumil	television cable systems
INVEST TEL, s.r.o.	television cable systems

JOE Media s.r.o.	radio cable systems
JUKE BOX, spol. s r.o.	local terrestrial radio broadcasting
K + K cable s.r.o.	retransmission in cable systems
K.T.V.M., s.r.o.	television cable systems
	retransmission in cable systems
KABEL OSTROV, s.r.o.	television cable systems
	retransmission in cable systems
Kabelová televize CZ s.r.o.	television cable systems
	retransmission in cable systems
Kabelová televize Jeseník, spol. s r.o.	television cable systems
	retransmission in cable systems
Kabelová televize Kadaň, a.s.	retransmission in cable systems
Kabelová televize Karviná, a.s.	retransmission in cable systems
Kabelová televize Klášterec nad Ohří, spol. s r.o.	retransmission in cable systems
Kabelová televize Kopřivnice, s.r.o.	television cable systems
	retransmission in cable systems
Kabelová televize Přerov, a.s.	television cable systems
	retransmission in cable systems
Kabelová televize Třinec, spol. s r.o.	television cable systems
	retransmission in cable systems
KabelSat, s.r.o.	television cable systems
	retransmission in cable systems
Kadlec, Aleš	television cable systems
Karneval Media s.r.o.	retransmission in cable systems
KATEL spol. s r.o.	television cable systems
KATRO-SERVIS, spol. s r.o.	television cable systems
	retransmission in cable systems
KELI, spol. s r.o.	television cable systems
	retransmission in cable systems
* Kindernay, Martin	local terrestrial television broadcasting
KONSAT s.r.o.	retransmission in cable systems
Kulturní a společenské středisko Chodov, s.r.o	television cable systems
Kuncl, Jaroslav	retransmission in cable systems
LOCAL TV PLUS, spol. s r.o.	terrestrial television broadcasting
	MMDS retransmission
LONDA spol. s r. o.	nationwide terrestrial radio broadcasting
	local terrestrial radio broadcasting
LYGRE, spol.s.r.o.	retransmission in cable systems
M - servis Zlín s.r.o.	television cable systems
	retransmission in cable systems
M+M spol. s r.o.	local terrestrial radio broadcasting
MAKRO, spol. s r.o.	television cable systems
	retransmission in cable systems
MAME Moravské Budějovice, s.r.o.	television cable systems
	retransmission in cable systems
Maštalíř, Miroslav	television cable systems
	retransmission in cable systems
MAX LOYD, s.r.o.	local terrestrial radio broadcasting
MAXPROGRES, s.r.o.	retransmission in cable systems
MEC Turnov, s.r.o.	retransmission in cable systems
MEDIA Party spol. s r.o.	local terrestrial radio broadcasting
Melichar, Jiří	retransmission in cable systems
Město Přebyslav	retransmission in cable systems
MĚSTSKÉ TECHNICKÉ CENTRUM KUŘIM, s.r.o.	television cable systems
	retransmission in cable systems

METEOPRESS, spol. s r.o.	cable systems and satellites
Mimoňská komunální a.s.	television cable systems
Minimax Media s.r.o.	satellite television
Multi vision, s.r.o	retransmission in cable systems
MWTV LOCAL, spol. s r.o.	retransmission in MMDS cable systems
Němec, Vlastimil	television cable systems
	retransmission in cable systems
NOEL, v.o.s.	television cable systems
	retransmission in cable systems
NONSTOP s.r.o.	local terrestrial radio broadcasting
North Music s.r.o.	local terrestrial radio broadcasting
Novák, Miroslav	television cable systems
	retransmission in cable systems
NTV cable s.r.o.	television cable systems
	retransmission in cable systems
OCT Network s.r.o.	cable systems and satellites
* OMNICOM Praha, s.r.o.	short-term local DVB-T terrestrial retransmission
Open net - projekty a stavby s.r.o.	retransmission in cable systems
ORION s.r.o.	local terrestrial radio broadcasting
Osif, Ladislav	television cable systems
	retransmission in cable systems
Pražské inforádio,s.r.o.	local terrestrial radio broadcasting
PROKABEL Ústí nad Labem, s.r.o.	television cable systems
	retransmission in cable systems
První rozhlasová s.r.o.	local terrestrial radio broadcasting
PS KŘÍDLA, s.r.o.	local terrestrial radio broadcasting
Pštrossová, Nataša	television cable systems
Quadriga EMEA Limited - Czech Republic - organizační složka	television cable systems
RADIO - FRANCE - INTERNATIONALE, S.N.	local terrestrial radio broadcasting
Rádio Bohemia, spol. s r.o.	local terrestrial radio broadcasting
RADIO BONTON a.s.	local terrestrial radio broadcasting
Radio Contact Liberec spol. s r.o.	local terrestrial radio broadcasting
RADIO CRYSTAL s.r.o.	local terrestrial radio broadcasting
Radio Černá Hora II. s.r.o.	local terrestrial radio broadcasting
Rádio Děčín s.r.o.	local terrestrial radio broadcasting
Radio Dragon s.r.o.	local terrestrial radio broadcasting
Rádio DUHA, spol. s r.o.	local terrestrial radio broadcasting
RADIO FAKTOR s.r.o.	local terrestrial radio broadcasting
RADIO FM Plus Plzeň s.r.o.	local terrestrial radio broadcasting
Radio Krumlov, s.r.o.	local terrestrial radio broadcasting
RADIO LIFE s.r.o.	local terrestrial radio broadcasting
RADIO METUJE, s.r.o.	local terrestrial radio broadcasting
RADIO MORAVA s. r. o.	local terrestrial radio broadcasting
RADIO MOST, společnost s ručením omezeným	local terrestrial radio broadcasting
Rádio Pálava s.r.o.	local terrestrial radio broadcasting
Rádio Podještědí, s.r.o.	local terrestrial radio broadcasting
Rádio Profil s.r.o.	local terrestrial radio broadcasting
RADIO PROGLAS s.r.o.	local terrestrial radio broadcasting
	satellite radio
Radio ProTon s.r.o.	local terrestrial radio broadcasting
RADIO PUBLIKUM spol. s r.o.	local terrestrial radio broadcasting
RADIO RELAX s.r.o.	local terrestrial radio broadcasting
RADIO STATION BRNO, spol. s r.o.	local terrestrial radio broadcasting

Rádio Student, s.r.o.	local terrestrial radio broadcasting
Radio Šumava, s.r.o.	local terrestrial radio broadcasting
Rádio Tep a.s.	local terrestrial radio broadcasting
Radio TWIST Praha, s.r.o.	local terrestrial radio broadcasting
Rádio Venkow, spol. s r.o.	local terrestrial radio broadcasting
Radio West Plzeň, s.r.o.	local terrestrial radio broadcasting
RADIO ZLÍN, spol. s r.o.	local terrestrial radio broadcasting
REGION MEDIA s.r.o.	satellite television
Regionální televize DAKR, s.r.o.	local terrestrial television broadcasting with regional scope
RFE/RL , Inc., organizační složka	satellite radio
RKR s.r.o.	local terrestrial radio broadcasting
Roudnická televizní s.r.o.	television cable systems
RTV - 5, spol. s r.o.	television cable systems retransmission in cable systems
RTV Cheb, k. s.	local terrestrial radio broadcasting
SAT - CENTRUM, spol. s r.o.	television cable systems
SAT Plus, s.r.o.	television cable systems cable systems and satellites
SATER v.o.s.	television cable systems retransmission in cable systems
SATT, a.s.	television cable systems retransmission in cable systems
SATTURN HOLEŠOV, spol. s r.o.	television cable systems retransmission in cable systems
SELF servis, s.r.o.	retransmission in cable systems television cable systems
SLAMONT ŠTĚTÍ, spol. s r.o.	retransmission in cable systems
SRAM, s.r.o.	television cable systems
Stanice O, a.s.	satellite television
STAR - MONT Pardubice, s.r.o.	television cable systems retransmission in cable systems
STAR - nova, spol. s r.o.	television cable systems retransmission in cable systems
Star Promotion, s.r.o.	terrestrial radio broadcasting
Stavební bytové družstvo Jablonné nad Orlicí	retransmission in cable systems
Stavební bytové družstvo Krušnohor	retransmission in cable systems
Stavební bytové družstvo občanů v Ledči nad Sázavou	retransmission in cable systems
Stavební bytové družstvo Rožnov	television cable systems retransmission in cable systems
Stavební bytové družstvo Těšíňan	retransmission in cable systems
Stavební bytové družstvo Život Mariánské Lázně	retransmission in cable systems
Strakonická televize, s.r.o.	television cable systems
Studio CLIPPER s.r.o.	terrestrial television broadcasting
Studio Re Vi s.r.o.	terrestrial television broadcasting
Šulc, Jiří	retransmission in cable systems
Švanda, Josef	television cable systems retransmission in cable systems
* T-Mobile Czech Republic a.s.	short-term terrestrial DVB-H
TELCOM, spol. s r.o.	television cable systems
Teletrans, s.r.o.	television cable systems retransmission in cable systems
TELTO, spol. s r.o.	television cable systems retransmission in cable systems

TESAS MEDIC, spol.s r.o.	television cable systems
	retransmission in cable systems
TETA s.r.o.	television cable systems
	retransmission in cable systems
TKR Jašek, s.r.o.	television cable systems
	retransmission in cable systems
TKW s.r.o.	television cable systems
	retransmission in cable systems
TOP. Spirit, a.s.	retransmission in cable systems
TRADICOM CZ, s.r.o.	retransmission in cable systems
TV D.I.S., a.s.	retransmission in cable systems
TV LYRA s.r.o.	terrestrial television broadcasting
	television cable systems
TV MORAVA, s.r.o.	terrestrial television broadcasting
	television cable systems
	retransmission in cable systems
TV Osoblaha s.r.o.	television cable systems
	retransmission in cable systems
TV PORT, s.r.o.	television cable systems
TV Vřídlo s.r.o.	terrestrial television broadcasting
TV-MAJ s.r.o.	television cable systems
	retransmission in cable systems
TVNET, s.r.o.	television cable systems
	retransmission in cable systems
* United Teleshop s.r.o. *	short-term terrestrial broadcasting
	local television broadcasting in 2005
	short-term terrestrial TV broadcasting
	lcoal broadcasting in 2006
	television cable systems
UNRA s.r.o.	terrestrial television broadcasting
UPC Česká republika, a.s.	retransmission in cable systems
V + J s.r.o.	terrestrial television broadcasting
V plus P s.r.o.	local terrestrial radio broadcasting
Vitvarová, Květoslava	television cable systems
Voborný, Jaroslav	television cable systems
Vosecký, Josef	retransmission in cable systems
WebVALC spol. s r.o.	radio cable systems and satellites
Wendyho počítačí stroje, spol. s r.o.	retransmission in cable systems
WEST BUILDING TECHNOLOGIES s.r.o.	television cable systems
ZAK TV s.r.o.	terrestrial television broadcasting
ZELENÁ HORA, stavební bytové družstvo	retransmission in cable systems
ZZIP s.r.o.	television cable systems

\* The broadcaster ceased to broadcast in 2005.

**B. INFORMATION ON THE SITUATION IN RADIO AND TELEVISION BROADCASTING AND RADIO AND TELEVISION [Section 6 (1) (b) of the Broadcasting Act]**

Pursuant to Section 4 (2) of the Broadcasting Act, the objective of the Council, as an administrative authority executing State administration in the area of radio and television broadcasting and retransmission, is to supervise over maintenance and further development of plurality of the program offer and information in the area of radio and television broadcasting and retransmission, and over independence of its content.

In order to fulfill the objective of maintaining and developing plurality of the program offer and information in the area of radio and television broadcasting and retransmission, the Broadcasting Act provides the Council with various instruments including powers related to granting of licenses and registrations and amendments thereto, monitoring of broadcasting from the viewpoint of compliance with the applicable laws and license conditions and imposing of sanctions.

The first step in the process of maintaining and developing plurality is to select appropriate entities in license proceedings, based on the principle of competition of projects, rather than on the principle of auction, which would inherently allow only economically strong entities to obtain licenses. License proceedings in the form regulated by the Broadcasting Act also give a chance to economically weaker entities (however, under the precondition that they are sufficiently strong to ensure broadcasting), whose project enriches the program offer from the viewpoint of plurality. For distribution of coordinated frequencies, the Act undoubtedly correctly provided for decision-making by the Council within administrative proceedings and selected the specific process of license proceedings as regards the form of the administrative proceedings. The reason for this was the concept of exclusive public interest with respect to the quality of the contents of broadcasting. The Act is based on assumption that financial aspects are not the main criterion in this case. The fact that decisions on frequencies are made within administrative proceedings documents that it is in the interest of the society that the license be granted to the best applicant. Thus, the Act emphasizes a social-cultural interest that a frequency, as a technical means of broadcasting, be provided to the best applicant from the viewpoint of assessment criteria stipulated by law. In other words, the Act acknowledges that a frequency for broadcasting belongs to a category of values which are reserved for decision-making by the State, which establishes a special administrative body to this end. In this relation, these values are sometimes described as the national wealth or even family silver. For these values, the State did not permit a lottery or auction, particularly because of the extraordinary interest in distribution of frequencies and the subsequent regulation of the entire area of broadcasting. The entire license proceedings are governed by uniform principles which are applicable for each party. This ensures the primary democratic principle of equality of applicants, which is not limited by their solvency. Of course, an auction would have to be organized pursuant to the statutory provisions and, therefore, it could also be contested before the courts; thus, an argument that an auction would be more expedient is de facto irrelevant. Furthermore, it is clear that only an applicant for a frequency, who meets certain statutory criteria, would be able to participate in an auction; nevertheless, a decision would have to be made on such criteria. Also for this reason, an auction seems to be ineffective.

The Council has adopted internal rules for evaluating applications within the license proceedings. These rules are based on the criteria stipulated by the law and are specified in more detail in the chapter "Information on Granted Licenses".

Plurality of information in nationwide radio and television broadcasting is provided for in more detail in Section 55 of the Broadcasting Act, which stipulates the rules for holding licenses, interests in businesses of other broadcasters and operators, and mergers with other broadcasters and operators. However, the Council considers this regulation to be inadequate as, given the limited competition in the area of nationwide broadcasting, the regulation does not apply to potential action in concert between broadcasters and operators. Granting of licenses for broadcasting within the DVB-T system to other broadcasters could substantially improve this situation, as it would increase competition and also minimize this feature.

Plurality of information in local radio and television broadcasting is provided for in Section 56 of the Broadcasting Act. Protection of plurality is based on the fact that local broadcasters may hold several licenses for broadcasting other than nationwide, but they are limited in that coverage by their broadcasting may not exceed 70 % of the total number of inhabitants of the

Czech Republic. Similar limitation also applies to interests of legal or natural persons in businesses of local broadcasters. The Council controls this limit in relation to granting of licenses and their amendments. The procedure for calculation of the coverage of inhabitants of a certain area of the Czech Republic by a signal follows from an expert report drawn up at request of the Council and is based on the principle that one person may be counted only once, without respect to the number of programs that can be theoretically received by the inhabitants of the given area. A program taking into account, inter alia, the minimum intensity of the field equal to 54 dBW is used for calculation of coverage of the population. However, the actual coverage of a certain area can be verified only by measurement. The aspects of calculating coverage of the population are further described in Chapter H.

With respect to creation of program networks which mean, pursuant to the Broadcasting Act, joint composition of programs or their substantial parts and their simultaneous dissemination by several broadcasters, the Broadcasting Act stipulates the same rule as for ownership interests, i.e. that a network may not cover more than 70 % of the total population of the Czech Republic.

For the purposes of control of compliance with the aforementioned provisions whose objective is to provide for plurality of information, it is necessary to know the ultimate owner, i.e. the person who de facto influences the broadcasting. With respect to inadequate competence of the Council, it is very difficult to determine this person, as follows from the sample property relations amongst broadcasters, as depicted below.

Broadcasters and operators may also merge without such a merger being subject to approval by the Council. The broadcasters and operators have only a notification obligation stipulated in Section 58 of the Broadcasting Act. An example of a merger of broadcasters is also depicted below.

The competence of the Council also includes decision-making on registration of retransmission; however, the Act does not provide the Council with adequate instruments in this area, allowing it to effectively supervise over maintenance and development of plurality of radio and television broadcasting. If the applicant meets the statutory conditions and the lodged application contains all the prescribed requisites, the applicant is entitled to be registered. However, retransmission operators are not obliged to maintain recordings of all broadcast programs for a period of 30 days and to provide these recordings to the Council; thus, the Council cannot adequately control the contents of broadcasting. In July and September 2005, the Council addressed two major operators of retransmission in cable networks, Karneval Media and UPC, with a request that they submit, by the end of 2005, their authorizations to broadcast the individual programs transmitted in the cable networks, including specification of the term of such authorization and the body which issued it. Furthermore, in the framework of performing the task of maintaining and developing plurality of the program offer and information in the area of retransmission, at its 14<sup>th</sup> meeting on July 27, 2005, the Council issued a notice for all retransmission operators that they would be requested to provide the following data within information pursuant to Section 27 of the Broadcasting Act: 1. basic description of the program, 2. information on granting a license and its term, 3. schedule of broadcasting of the program in the country where it is licensed.

Another basic task of the Council is to ensure independence of the contents of radio and television broadcasting, which is one of the expressions of the constitutional principle of freedom of speech. This constitutional principle belongs amongst fundamental human rights recognized in all democratic legal systems and also amongst the basic building blocks of democracy as a political system.

In the Czech legislation, the principle of freedom of speech is regulated and protected by a great many laws, particularly the Charter of Fundamental Rights and Freedoms and international treaties on human rights which are part of the constitutional order of the Czech Republic pursuant to Art. 3 and Art. 10 of the Constitution of the Czech Republic. Constitutional laws and international treaties on human rights prevail over laws and their individual provisions are directly applicable unless they contain a special implementation clause.

Article 17 (1) of the Charter of Fundamental Rights and Freedoms is the most important provision in this sense, stipulating that freedom of speech and the right to information are guaranteed. Pursuant to paragraph 2 of the same Article, everyone has the right to express his opinions verbally, in writing, in the press, in images or in some other manner, and to freely seek, accept and disseminate ideas and information without respect to State frontiers.

This constitutional principle is reflected, inter alia, in the said provision of Section 4 (2) of the Broadcasting Act, according to which the Council ensures the independence of the content of radio and television broadcasting and retransmission.

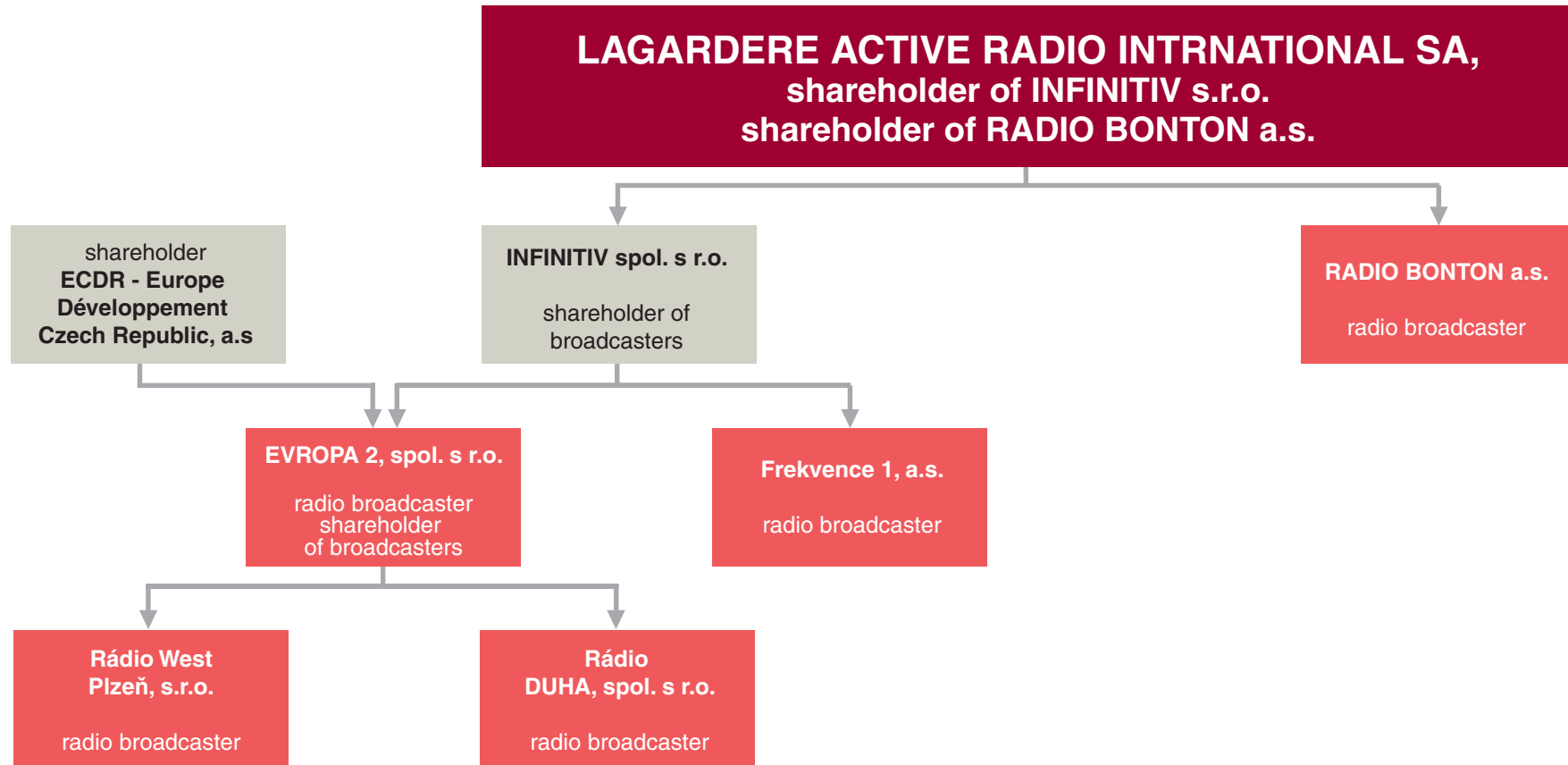
However, this constitutional principle of freedom of speech has its limits. Pursuant to Article 17 (4) of the Charter of Fundamental Rights and Freedoms, the freedom of speech and the freedom to seek and disseminate information can be limited by law, provided that such limitation is necessary in the democratic society for the protection of rights and freedoms of others, State security, public security, protection of public health and morals.

Regulation of radio and television broadcasting is sometimes conceived, from the liberal viewpoint, as denial of the constitutional principle of freedom of speech. However, the aforementioned provision refutes this opinion. Conflict of regulation of broadcasting and the freedom of speech (independence of the content of broadcasting), or the discussion on the degree of regulation and the degree of the freedom of speech, is exclusively a political issue. Admittedly, a developed democratic society cannot permit anarchy in the area of broadcasting where an exercise of the right of one person (broadcaster) to the freedom of speech could infringe on the rights of other persons.

Indeed, protection of the rights and freedoms of others is also ensured by the Broadcasting Act, which provides the Council with a number of regulatory instruments in this sense, consisting in control and punishing powers. Simultaneously, the same Act provides for protection of independence of the contents of radio and television broadcasting.

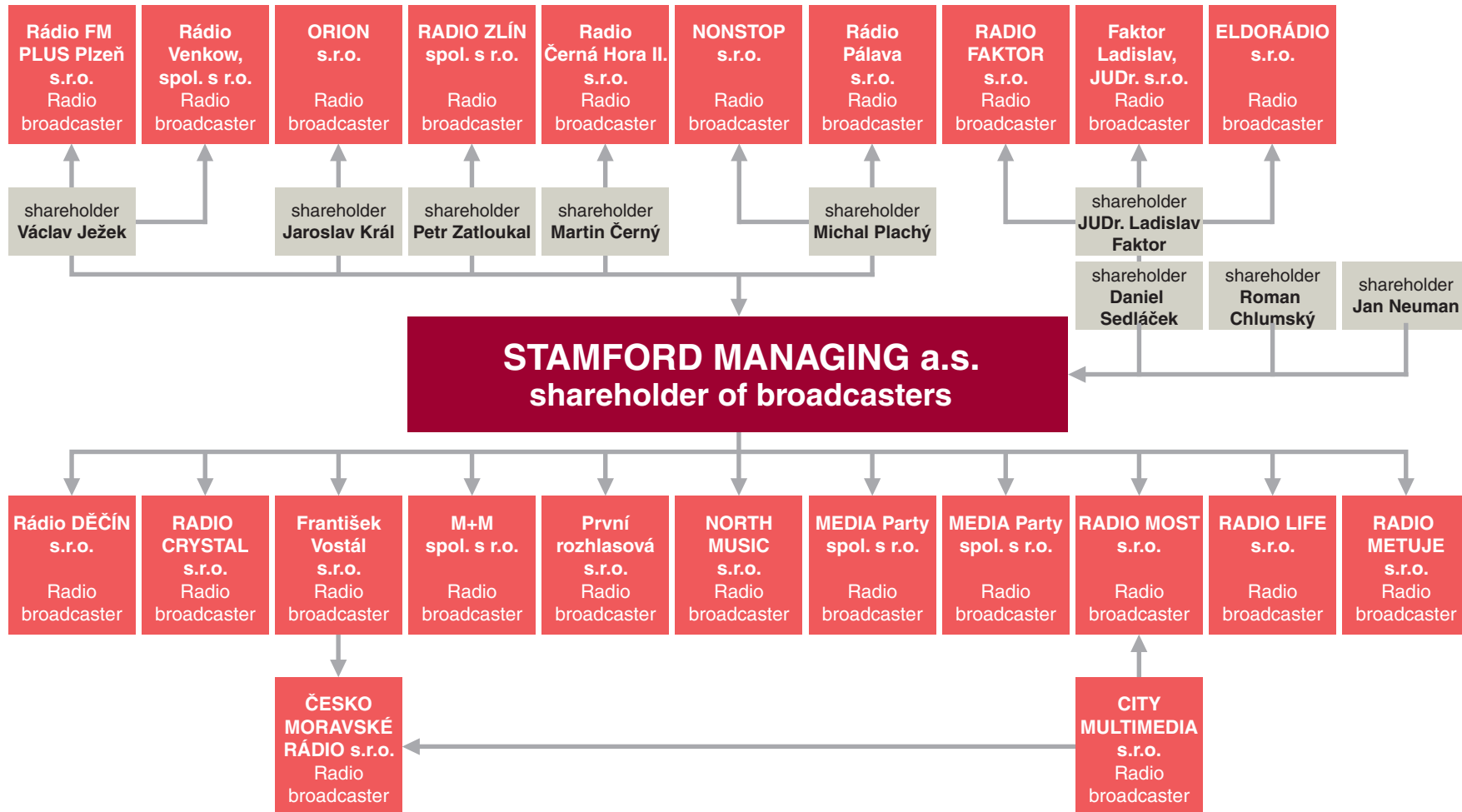
Regulation should not be confused with censorship. Pursuant to Article 17 (3) of the Charter of Fundamental Rights and Freedoms, censorship is inadmissible. Censorship would deny the principle of freedom of speech and, thus, also render impossible independence of the contents of radio and television broadcasting; specifically, it could prevent free expression of opinions, deny fundamental human rights or constitute inadmissible political pressure. In contrast, appropriate regulation effectively facilitates protection of other human rights, thus maintaining the desirable balance of the democratic society.

## Example of property relations amongst radio broadcasters



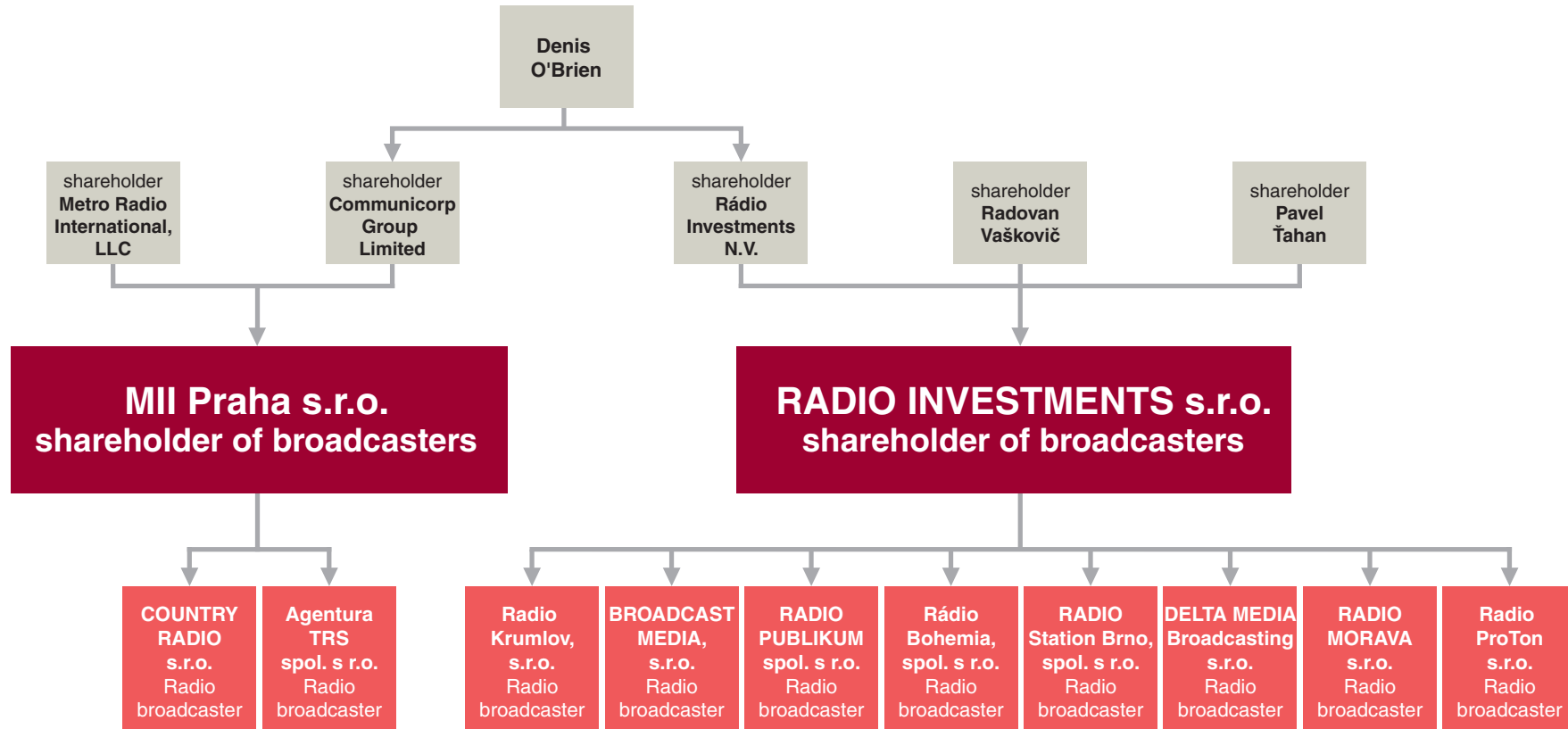
The Council has learned this information from its official activities and publicly accessible sources.

## Example of property relations amongst radio broadcasters



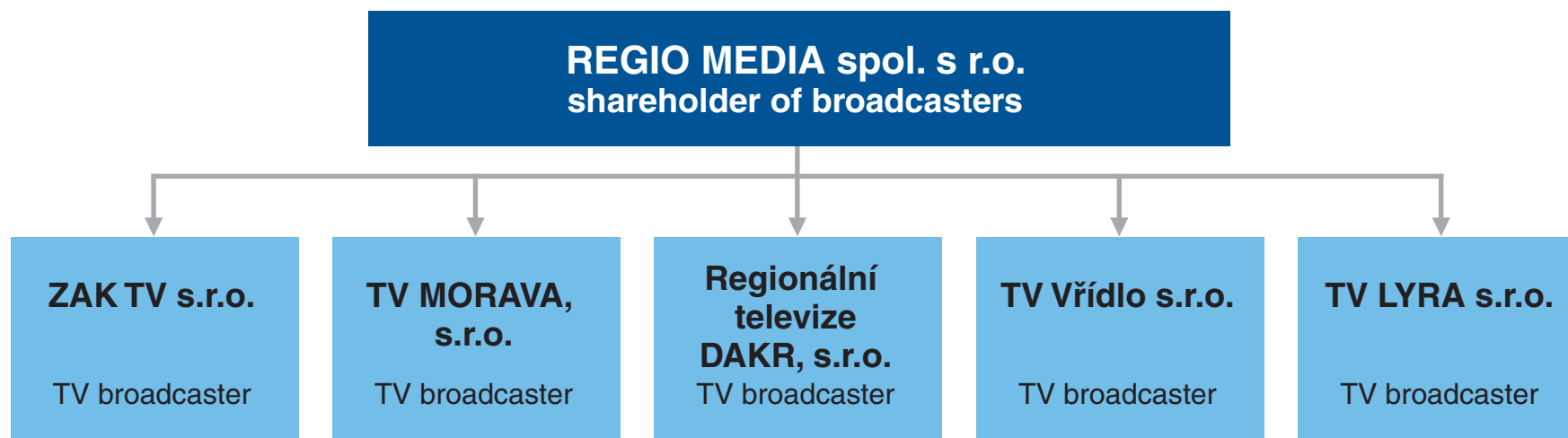
The Council has learned this information from its official activities and publicly accessible sources. Information on shareholders of STAMFORD MANAGING a.s. are as of December 5, 2003

## Example of property relations amongst radio broadcasters



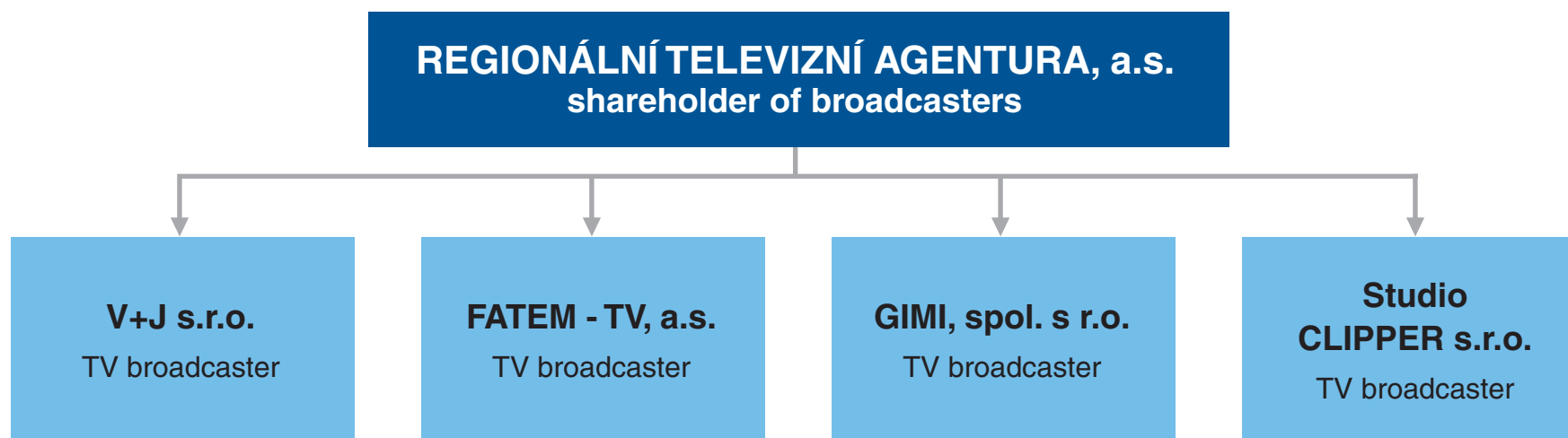
The Council has learned this information from its official activities and publicly accessible sources.

## Example of property relations amongst television broadcasters



The Council has learned this information from its official activities and publicly accessible sources.

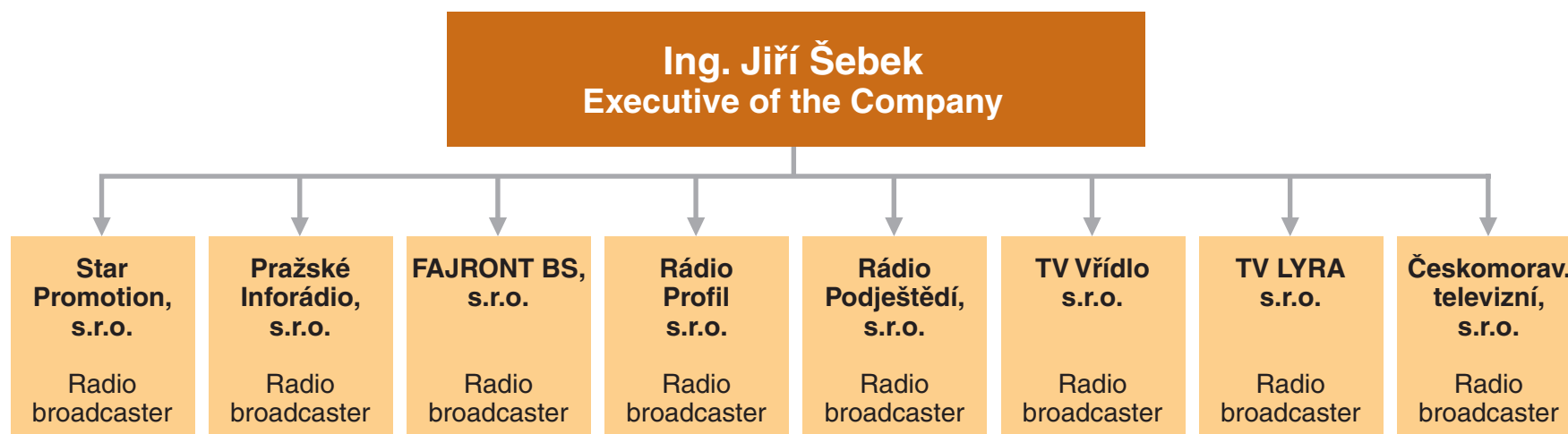
## Example of property relations amongst television broadcasters



The Council has learned this information from its official activities and publicly accessible sources.

## Graphic depiction of mergers of broadcasters

(The information is based on the prior consents granted by the Council; i.e. not all the changes were registered in the Commercial Register at the time of drawing up the charts)



Tyto informace jsou Radě známy z její úřední činnosti a z veřejně dostupných zdrojů

## **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]**

#### **Legislation on radio and television broadcasting**

Pursuant to Section 5 (a) of the Broadcasting Act, the Council supervises over compliance with legal regulations in the area of radio and television broadcasting and over the conditions stipulated in the decision on granting the license or in the decision 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. The legislature provided the Council with the power to impose penalties only under the Broadcasting Act and Act No. 40/1995 Coll., on regulation of advertising.

- Act No. 127/2005 Coll., on electronic communications
- Act No. 40/1995 Coll., on regulation of advertising and amending and supplementing Act No. 468/1991 Coll., as amended
- Act No. 121/2000 Coll., on copyright
- Act No. 106/1999 Coll., on free access to information, as amended
- Act No. 101/2000 Coll., on protection of personal information and amendment to some laws, as amended
- Act No. 483/1991 Coll., on the Czech Television, as amended
- Act No. 484/1991 Coll., on the Czech Radio, as amended
- Act No. 348/2005 Coll., on radio and television fees
- Act No. 480/2004 Coll., on certain services of the information society
- Act No. 123/2000 Coll., on medical devices and on amendment to some related laws
- Act No. 20/1966 Coll., on care for the public health, as amended
- Act No. 79/1997 Coll., on medical substances and amending and supplementing some related laws
- Act No. 110/1997 Coll., on foodstuffs and tobacco products, and on amendment to and supplementation of some related laws, as amended
- Act No. 379/2005 Coll., on measures for protection against harm caused by tobacco products, alcohol and other dependency producing substances
- Decree No. 473/2000 Coll., laying down details of registrations, changes therein, prolonging thereof, specifying the manner of providing a medicinal preparation, the manner of reporting and evaluating undesirable effects of a medicinal preparation and the manner and extent of notification of the use of an unregistered medicinal preparation
- Act No. 22/1997 Coll., on technical requirements for products, and on amendment to and supplementation of some laws
- Act No. 202/1990 Coll., on lotteries and other similar games, as amended
- Act No. 643/1992 Coll., on protection of consumers, as amended

#### **Survey of activities carried out by the Council on the basis of the aforementioned legal regulations**

##### **Act No. 202/1990 Coll., on lotteries and other similar games, as amended**

The Council commenced administrative proceedings against the Czech Television concerned with possible violation of Section 2 (1) (a) of Act No. 40/1995 Coll., on regulation of advertising, as amended, with respect to an advertisement for an Internet betting game operated under the name Betandwin. The activity promoted in the aforementioned advertisement could be an activity carried out without the necessary authorization and, thus, at variance with the legislation, specifically with Act No. 202/1990 Coll., on lotteries and other similar games. The Council

requested an opinion from the Ministry of Finance on this matter. It is stated in the opinion that the Betandwin company has not been granted a permit by the Ministry for this activity and, therefore, its activity is at variance with law. It can be concluded that broadcasting of the relevant advertisement, which expressly offers betting on the Internet, was at variance with Act No. 40/1995 Coll., as amended, whose Section 2 (1) prohibits advertisements for goods, services or other performances, whose sale, provision or dissemination is at variance with legal regulations. While the relevant legislation, Act No. 202/1990 Coll., on lotteries and other similar games, as amended, does not expressly prohibit operation of lotteries and betting games on the Internet (however, such prohibition is included in the draft amendment to this Act), according to the Ministry of Finance, the conditions stipulated by law had not been fully met and, therefore, the Ministry had not issued any permit for operation of betting games on the Internet. Thus, it is clear that the relevant advertisement was an advertisement for a performance whose provision is at variance with law due to absence of a permit from the competent authority. The Council consulted its procedure with the head of the Department of the Ministry of Finance for State Supervision over Betting Games and Lotteries. The Council also commenced administrative proceedings against CET 21 spol. s r.o. for a similar violation of law.

#### **Act No. 643/1992 Coll., on protection of consumers, as amended**

The Council received complaints of viewers concerned with unclear indication of the price for a telephone call or an SMS message in broadcasting of Prima and Nova. This case is concerned with a situation where the viewers are given a very simple question which they can answer by telephone and thus participate in a draw for a monetary prize. Prices for telephone calls or SMS messages are indicated unclearly on the television screen, in small letters or on a moving ticker. Sometimes, this information is not visible on the screen at all. The Council believes that such approach used by providers of telephone services is incorrect – Section

12 of Act No. 643/1992 Coll., on protection of consumers, as amended, stipulates that „*The seller shall be obliged to inform the consumers, in accordance with the price regulations, of the price for the sold products or provided services by means of **clear indication** of the price on the product or by making information on the price of products or services otherwise suitably available*“. The Council came to the conclusion that the procedure of certain operators of mobile telephone networks in relation to information on the prices of telephone calls and SMS messages in television broadcasting could be at variance with this provision of the Act on Protection of Consumers. The Council commenced administrative proceedings with the Czech Television, CET 21 spol. s r.o. and FTV Prima, spol. s r.o. for possible violation of Section 48 (1) (a) of the Broadcasting Act – broadcasting of advertisements that support conduct which endangers consumer interests.

#### **Protection of health – volume of theme tunes and advertisements**

The Ministry of Health forwarded to the Council a complaint concerned with increased volume of theme tunes in between individual inputs of the announcers in the news of the Nova television.

The Broadcasting Act does not provide for assessment of the aspects of alleged or actual unbalanced volume of theme tunes compared to other parts of television broadcasting, which can be conceived from technical, public health and economic-commercial viewpoints. As regards the actual substance of this phenomenon, this could be a subjective process, including subjective psycho-acoustic characteristics of human hearing, where the recipient's perceptions are modified by compression of the dynamic range of sounds. To this end, the producers use audio-processors which increase the subjective physiological intensity of sound, while maintaining the objective volume. Given the fact that the current measuring methods are not capable of distinguishing modifications caused by compression, it is not possible to objectively measure as to whether the sound signal has been modified in this manner. The complainant was referred to the Czech Telecommunication Office, whose mission is to make decisions on the rights and obligations of natural and legal persons in the area of electronic communications in the Czech Republic and which may thus be competent in the given matter, and also to the competent regional or district public health stations which are authorized, in the sense of Act No. 258/2000 Coll., on protection of public health, to issue decisions, permits and certificates, and to fulfill other tasks of the State administration in the protection of public health, including the State health-care supervision.

Nevertheless, the Council intends to further deal with this problem and seeks a manner of measuring the given sound phenomenon. In addition to such technical difficulties, there are also legislative issues, as the Broadcasting Act does not allow the Council to punish the broadcasters for this conduct, even if such excess of volume actually occurred.

**Act No. 106/1999 Coll., on free access to information, as amended**

In addition to fulfillment of its duties under the aforementioned Act, on August 29, 2005, the Council published in the manner allowing for remote access all license conditions of licensed radio and television broadcasters. This database is regularly updated. The Council thus contributes to increased transparency in the entire field of radio and television broadcasting.

**Act No. 348/2005 Coll., on radio and television fees**

The Council has received a number of complaints concerning the manner in which the Czech Television exacts outstanding television fees.

In accordance with Section 5 (a) of the Broadcasting Act, in addition to other fields of competence, the Council supervises over fulfillment of legal regulations in the area of radio and television broadcasting and over the conditions stipulated in the decision on granting the license or in the decision on registration (subparagraph (a) of the cited provision) and imposes penalties pursuant to the Broadcasting Act (subparagraph (f) of the cited provision).

Admittedly, the legal regulations in the area of broadcasting include Act No. 483/1991 Coll., on the Czech Television, as amended, as well as Act No. 348/2005, on radio and television fees and on amendment to some laws.

Doubts arose during the relevant period as to the manner of exacting fees for the Czech Television. The Council is not authorized to resolve such disputes.

Reference can be made to the formal nature of the wording of the Act, which, on the one hand, obliges the Council to ensure compliance with the legal regulations in the area of broadcasting and, on the other hand, limits its competence, as follows from the aforementioned facts.

**Act No. 127/2005 Coll., on electronic communications**

Adoption of Act No. 127/2005 Coll., on electronic communications, which defines the manner of regulation in this area and the tasks of the Czech Telecommunication Office, brought a substantial change to legislation concerning radio and television broadcasting. In addition, this Act also amends some other laws, particularly the Broadcasting Act, Act on the Czech Television and Act on the Czech Radio. The Act on Electronic Communications entered into force on May 1, 2005.

Competence of the Council for Radio and Television Broadcasting and the Czech Telecommunication Office is defined by the Broadcasting Act and Act No. 127/2005 Coll., on electronic communications and on amendment to some related laws. The cited Acts provide, in substance, for a certain complementary dualism in regulation of broadcasting, which can be very simply characterized as division of regulatory competence according to the technical aspects and contents, where the contents, from granting of licenses for first transmission of original programs and registration of retransmission, falls within the competence of the Council. The aforementioned dual competence requires, particularly with respect to usual administrative activities of the two institutions, mutual conciliation meetings related to application of the two cited laws. To this end, the Council has established a special commission whose task is to continuously conciliate any differences in opinions on application of laws. A substantial part of the work of the coordination commission includes particularly aspects related to broadcasting in digital systems.

Only part of the Act is applicable to radio and television broadcasting. It expressly provides for separation of regulation of transmission from regulation of the contents of broadcasting, provided that the links between the regulations are not prejudiced from the viewpoint of guaranteeing plurality in the media. The Broadcasting Act is modified in two aspects:

- 1) provisions concerning the set of technical parameters do not apply to terrestrial digital broadcasting (their validity within the analogue system is not prejudiced)
- 2) the territorial scope of terrestrial digital broadcasting is set by the Council in accordance with the standpoint of the CTO by means of enumeration of districts, or city wards of the Capital City of Prague, as appropriate, which are fully or partly covered by broadcasting.

Administration of radio frequencies is entrusted exclusively to the Czech Telecommunication Office. Radio frequencies may be used only on the basis of an individual authorization, unless the Act stipulates otherwise. The CTO may grant authorizations for use of radio frequencies for radio service only if a license has been issued pursuant to the special legal regulation (the Broadcasting Act) or with the consent of the Council. The CTO notifies the Council of revoking authorizations in relation to bands intended exclusively for radio and television broadcasting.

The Act contemplates that the electronic program guide (EPG) service in terrestrial digital broadcasting will be ensured by the operator of a network of transmitters. The CTO shall impose on the operator obligations related to this service on the basis of specification by the Council.

**Act No. 40/1995 Coll., on regulation of advertising and amending and supplementing Act No. 468/1991 Coll., as amended**

A list of administrative proceedings commenced pursuant to the Act on Regulation of Advertising, including the imposed penalties, is part of the general survey of administrative proceedings and penalties.

The Act on Regulation of Advertising contains general provisions concerning advertising and the related definitions with respect to radio and television broadcasting. Thus, where the two laws contain different regulation of the same matter, the special law in the area of broadcasting prevails (the Broadcasting Act). This is the case, for example, with respect to certain definitions (advertisement, surreptitious advertising) or responsibility for the contents of advertisements. Where the relevant regulation is contained only in the Act on Regulation of Advertising (e.g. definition of the client, advertisements for medical devices), such general regulation must be respected.

Pursuant to the Act on Regulation of Advertising, the Council is the competent body for supervision over compliance with the Act on Regulation of Advertising with respect to advertisements published in radio and television broadcasting and with respect to sponsoring within radio and television broadcasting. Certain institutes that are subject to supervision are contained in both laws, with is true, e.g., for prohibition of subliminal or surreptitious advertisements; violation of such prohibition is penalized under both laws. Where this is the case, the regulation contained in the special law, i.e. the Broadcasting Act, prevails. However, it is important that, pursuant to the Broadcasting Act, the Council may punish only broadcasters, while the Act on Regulation of Advertising enables it to punish also clients and authors of advertisements, subject to certain conditions. Thus, the Council applies the Act on Regulation of Advertising when it punishes the clients or authors of advertisements, while disseminators are punished pursuant to the said Act only in certain specific cases.

In this relation, it should be noted that the Act on Regulation of Advertising imposes responsibility, rather than on the disseminator of advertisements (the broadcaster), on the client and the author. Pursuant to Section 6b of the Act on Regulation of Advertising, the broadcaster is responsible, as the disseminator, only for the manner of disseminating advertisements. The broadcaster is responsible only in cases pursuant to the special law (the Broadcasting Act), provided that, pursuant to Section 48 (5) of the Broadcasting Act, the broadcaster is responsible for the veracity of information contained in an advertisement only if the author cannot be determined. Responsibility for the manner of dissemination also covers surreptitious, subliminal and misleading advertisements.

The following laws also apply in relation to application of the Act on Regulation of Advertising:

- No. 79/1997 Coll., on pharmaceuticals and amending and supplementing some related laws
- Act No. 110/1997 Coll., on foodstuffs and tobacco products, and on amendment to and supplementation of some related laws, as amended
- Act No. 123/2000 Coll., on medical devices and on amendment to some related laws

**Act No. 121/2000 Coll., on copyright**

Unlike some other regulatory authorities in the area of broadcasting in the European Union, the Council does not have any specific competence to make decisions pursuant to the Copyright Act. Under the former regulation (Act No. 468/1991 Coll.), the Council verified, with respect to the applicants for registration, as to whether the applicants have concluded an agreement with organizations that have been granted authorization for collective management of copyright and related rights. This provision increased protection of the holders of copyright and related rights. The current Broadcasting Act does not stipulate this competence of the Council.

**D. INFORMATION ON THE RESULTS OF CONTROL OF COMPLIANCE WITH THE DUTIES STIPULATED IN THE BROADCASTING ACT AND THE CONDITIONS IMPOSED ON BROADCASTERS AND RETRANSMISSION OPERATORS**  
**[Section 6 (1) (d) of the Broadcasting Act]**

**Information on the applied provisions of the Act, on the controlled parameters of licenses, on the scope of monitoring and on the methodology of analysis of the contents**

The competence of the Council includes supervision over compliance with the legal regulations in the area of radio and television broadcasting and the terms and conditions stipulated in the license decision.

The legal provisions concerning the contents of broadcasting are contained in the Act on Radio and Television Broadcasting, particularly in Sections 31 to 53 incl., and are related to the following topics:

- Objectiveness, balance and plurality of the program structure.
- Contents of the broadcast programs with respect to young viewers.
- Promotion of European works (see a separate chapter).
- Duties in broadcasting of advertising and teleshopping including time schedule.
- Duties in broadcasting of sponsored programs.

Within its control activities, the Council is also subject to the provisions of the Act on Advertising (No. 40/1995 Coll.) and checks whether licensed operators comply with the terms and conditions stipulated in the license.

In 2005, the Council dealt with 267 analyses of radio and television broadcasting, including nationwide broadcasting, local broadcasting and broadcasting disseminated via satellites and cable networks.

Majority of analyses are drawn up at instigation of viewers or listeners. Certain analyses, particularly those concerned with regional broadcasters, were part of planned comprehensive monitoring tasks.

The year 2005 witnessed a substantial increase in the number of discussed issues. The most important of these issues were concerned with the new “reality show” programs – Big Brother and Vyvolení (see below).

The number of discussed cases concerned with the broadcast programs increased by 42.6 % compared to 2003. The complaints were mostly related to protection of children and youth, both from the viewpoint of protection against frequent unsuitable scenes depicting gross violence and from the viewpoint of frequent erotic scenes. In March, the Council held a workshop concerned with this topic where it presented five case studies demonstrating the approach of the Council to the assessed programs. The workshop was attended by professional public, not only from the media, but also from the area of psychology and research. The workshop was very positively evaluated, which was evidenced by a written survey amongst the participants.

The number of complaints concerned with advertising spots also increased. As a consequence of the constantly increasing violence and vulgarity in advertisements, the Council commenced administrative proceedings with broadcasters concerning two advertising spots. In other cases, which rather included non-ethical conduct, the Council forwarded the case to the Council for Advertising. In addition to the aforementioned problematic spots, the number of misleading advertisements is also constantly increasing. The proceedings concerned with this issue are prolonged, as the Council needs to ascertain, from the broadcaster, the identity of the client and author of advertising spots, as these persons are jointly responsible for the contents of advertisements.

A total of 3517 advertising spots, 1324 sponsor’s messages and 1888 teleshopping spots were evaluated in 2005.

A third major problem of television broadcasting is related to objectiveness and balance of news and political and journalist programs. The performed analyses take into account different

approaches to news and journalist work. For news programs which respond to the current social events, account is taken particularly of materiality and consistent separation of news and comments.

A journalist program provides a wider scope for various opinions, where an irreplaceable role is played by the presence of professionals in the given area. Thus, the viewer has a better opportunity to form his own, unbiased opinion. However, in any case, analysis of the contents does not provide for verification of accuracy of the stated facts by comparing them with the actual state of affairs. The object of interest and assessment includes only facts and information described in the program.

An integral part of the work of the Council consists in evaluation of comprehensive monitoring of radio broadcasters. This monitoring is concerned with the duties imposed on the broadcasters by law, as well as with the terms and conditions stipulated by their license. Earlier this year, the Council has provided access to the license conditions of all licensed broadcasters on its website.

For licensed radio broadcasters, the terms and conditions include controlled parameters and the program structure. The controlled parameters include, e.g., the ratio of spoken word, frequency of news programs and the ratio of Czech music.

The latter aspect poses increasing problems in evaluation, as a number of Czech artists produce their music in foreign languages. Another questionable aspect is related to Slovak artists and their music. The only instrument available for evaluation of broadcasting is the time schedule of music broadcasting provided by the broadcasters. However, broadcasters are not obliged by law to provide such documents.

In addition to the aforementioned workshop concerned with the subject of protection of children and youth, workshops were organized for the Council and for employees of the Office of the Council with respect to the following topics: advertisements and sponsor's messages, new Code of Administrative Procedure, digitalization including related aspects and financial resources for terrestrial digital television broadcasting in the Czech Republic.

## **Imposing penalties for breach of duties stipulated in the Broadcasting Act**

The basic areas of competence of the Council, as stipulated by the Broadcasting Act, include supervision over fulfillment of legal regulations in the area of radio and television broadcasting and over the conditions stipulated in the decision on granting the license or in the decision on registration and subsequent imposing of penalties for any breach of the statutory provisions, as appropriate.

The Broadcasting Act distinguishes two main types of penalties for breach of the set duties, namely a notice of breach of the Act and a fine; in case of an especially serious breach of the Act, the Council is authorized to suspend retransmission, withdraw a license or cancel registration.

The Council issues a notice in case of breach of duties stipulated by the Broadcasting Act or the terms and conditions of the granted license, and sets a deadline for remedy corresponding to the character of the breached duty. If the operator provides for a remedy within the set deadline, the Council does not impose the penalty. A remedial measure cannot be employed in case of breach of the following duties of the broadcaster: the duty to ensure that the broadcast programs do not incite to hatred due to 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.

The Council issues notices in cases involving the first breach of the given statutory provision by a specific broadcaster or when the gravity of a repeated breach is minor. Section 99 of the Broadcasting Act should be construed in that until a broadcaster receives a decision on a notice of breach of a specific provision of the Broadcasting Act and such broadcaster commits further breach of the same provision, any and all further breaches shall be assessed by the Council as if these were the first breaches, subject only to a notice. However, if such breach is committed after delivery of a notice, the Council may choose from both these types of sanctions.

In case of breach of duties that are not subject to a notice and in cases of repeated breach (i.e. a broadcaster has already been served a decision on a notice) of other duties stipulated by law or in the license conditions, the Council shall impose a fine. When imposing a fine and determining the amount thereof, the Council takes into account: 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 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 limit of the penalty; there are a total of six ranges of penalties.

The Council may resolve to suspend retransmission, if such retransmission repeatedly and seriously breaches the provisions of Sections 31 and 32 (1) (b), (c), (d), (e), (f), (g) and (h) of the Broadcasting Act concerning the contents of programs and the basic duties of broadcaster and retransmission operators.

The Council makes a decision on canceling registration if the broadcaster stated false data in the application or if he repeatedly breaches the provisions of Sections 31 and 32 (1) (b), (c), (d), (e), (f), (g) and (h) of the Broadcasting Act and a fine has already been imposed for such breach. The Council may decide on canceling 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 to the duty to provide for plurality of information in broadcasting, if he repeatedly breaches the duties stipulated in Section 32 (1) (a), (c), (d) and (e) of the Broadcasting Act in an especially serious manner and a fine has been repeatedly imposed on him for such breach or if he repeatedly breaches 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, however, at the latest two years from the day when the breach of duties occurred. Administrative proceedings commenced on the basis of a request for provision of 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 municipal court. Section 66 of the Broadcasting Act provides an exhaustive enumeration of the types of decisions against which such action may be lodged. These decisions include decisions on penalties. If a party to the proceedings disagrees with the decision of the Council on imposing a penalty, it may lodge an action with the municipal court for canceling such a decision. The action has a suspensory effect and the court must make a decision thereon within 90 days.

## **Survey of notices and fines for breach of duties stipulated in the Broadcasting Act**

In 2005, the Council pursued 34 administrative proceedings commenced in the previous year and commenced over 230 new proceedings. 36 administrative proceedings were completed by issuing a notice of breach of the Act. In 46 other cases, the Council imposed fines in a total amount of CZK 49,810,000. Fines in an amount of CZK 1,660,000 were paid during the relevant period. This low amount of paid fines is caused particularly by the fact that, in a majority of cases, the broadcasters claim judicial review of the decisions on imposing penalties, where the duty to pay the fine is suspended until the court's decision is final.

The Council ordered analysis of 100 additional cases which were put aside after the analysis and no administrative proceedings were commenced. Most cases were concerned with programs involving potential breach of objectivity and balance and also programs that could endanger physical, mental or moral development of children and youth.

## Notices

Breach	Number
Change in certain facts set forth in a license application Section 21 (2) of the Broadcasting Act	10
Failure to provide a document on a change in the shareholders Section 21 (4) of the Broadcasting Act	1
Failure to notify a change in contributions of individual shareholders Section 29 (1) (a) of the Broadcasting Act	1
Failure to notify a change in other facts stated in the application for registration Section 29 (3) of the Broadcasting Act	2
Breach of the duty to maintain the principles of objectivity and balance in political programs and particularly ensure that no political party or movement is favored Section 31 (2) and (3) of the Broadcasting Act	2
Breach of the duty to ensure that the broadcast programs do not incite to hatred due to race, sex, religion, nationality or association with a certain group of population Section 32 (1) (c) of the Broadcasting Act	2
Breach of the prohibition of broadcasting programs and spots that could endanger physical, mental or moral development of children and youth from 6:00 A.M. to 10:00 P.M. Section 32 (1) (g) of the Broadcasting Act	4
Breach of the duty to ensure that broadcasting of programs that are subject to limitation pursuant to subparagraph g) is immediately preceded by a verbal warning of unsuitability of the program for children and youth and its labeling with a pictorial symbol warning of its unsuitability for children and youth Section 32 (1) (h) of the Broadcasting Act	1
Breach of the duty to keep recordings of all broadcast programs for a period of at least 30 days from the date of their broadcasting and provide them to the Council Section 32 (1) (j) of the Broadcasting Act	2
Breach of the duty to state the designation of the television program (logo) in television broadcasting, except for broadcasting of advertising and teleshopping Section 32 (1) (l) of the Broadcasting Act	3
Breach of the duty to apply for prior consent to each interruption of broadcasting for reasons other than technical obstacles Section 32 (1) (o) of the Broadcasting Act	1
Breach of the duty of the broadcaster to ensure that advertisements and teleshopping are distinguishable and clearly separated, for radio broadcasters, by sound, and for television broadcasters, by sound or picture or sound and picture, from other programs Section 48 (4) (a) of the Broadcasting Act	6
Breach of the duty not to include surreptitious and subliminal advertisements and teleshopping in broadcasting Section 48 (1) (g) of the Broadcasting Act	1
Breach of the duty of the broadcaster not to broadcast advertisements and teleshopping concerned with erotic services and products from 6:00 A.M. and 10:00 P.M. Section 48 (4) (c) of the Broadcasting Act	1
Breach of duties in including advertisements and teleshopping in the program Section 49 (1) to (5) of the Broadcasting Act	4
Breach of duties in including advertisements and teleshopping in the program Section 50 (1) and (2) of the Broadcasting Act	14
Breach of the duty of broadcasters in broadcasting of sponsored programs Section 53 of the Broadcasting Act	1
Failure to reserve one channel for a free local information system Section 54 (1) of the Broadcasting Act	2
Non-compliance with the license conditions Section 60 (2) (g) of the Broadcasting Act	4

### Imposed fines

Breach	Number
Change in certain facts set forth in a license application Section 21 (2) of the Broadcasting Act	1
Breach of the duty to maintain the principles of objectivity and balance in political programs and particularly ensure that no political party or movement is favored Section 31 (2) and (3) of the Broadcasting Act	1
Breach of the prohibition of broadcasting programs and spots that could endanger physical, mental or moral development of children and youth from 6:00 A.M. to 10:00 P.M Section 32 (1) (g) of the Broadcasting Act	23
Breach of the duty of the broadcaster to ensure that advertisements and teleshopping are distinguishable and clearly separated, for radio broadcasters, by sound, and for television broadcasters, by sound or picture or sound and picture, from other programs Section 48 (4) (a) of the Broadcasting Act	20
Breach of duties in including advertisements and teleshopping in the program Section 50 of the Broadcasting Act	3
Non-compliance with the license conditions Section 60 (2) (g) of the Broadcasting Act	1
Broadcasting without authorization Section 60 (5) of the Broadcasting Act	1

### Suspended proceedings

Breach	Number
Prior consent to a change in certain facts set forth in a license application Section 21 (b) and (d) of the Broadcasting Act	1
Breach of the duty to maintain the principles of objectivity and balance in political programs and particularly ensure that no political party or movement is favored Section 31 (2) and (3) of the Broadcasting Act	4
Breach of the duty not to show, without justification, dying people or people exposed to heavy physical or mental torture, doing so in a manner detrimental to human dignity Section 32 (1) (f) of the Broadcasting Act	1
Breach of the prohibition of broadcasting programs and spots that could endanger physical, mental or moral development of children and youth from 6:00 A.M. to 10:00 P.M Section 32 (1) (g) of the Broadcasting Act	2
Breach of the duty to keep recordings of all broadcast programs for a period of at least 30 days from the date of their broadcasting and provide them to the Council Section 32 (1) (j)	6
Breach of the duty to state the designation of the television program (logo) in television broadcasting, except for broadcasting of advertising and teleshopping Section 32 (1) (l)	1
Breach of the duty of the broadcaster to ensure that advertisements and teleshopping are distinguishable and clearly separated, for radio broadcasters, by sound, and for television broadcasters, by sound or picture or sound and picture, from other programs Section 48 (4) (a) of the Broadcasting Act	8
Breach of duties in including advertisements and teleshopping in the program Section 49 (4) of the Broadcasting Act	1
Breach of duties in including advertisements and teleshopping in the program Section 50 of the Broadcasting Act	2
Non-compliance with the license conditions Section 60 (2) (g) of the Broadcasting Act	7
Broadcasting without authorization Section 60 (5) of the Broadcasting Act	10
Serious breach of the license conditions Section 60 (6) (c) of the Broadcasting Act	1

### Commenced proceedings

Breach	Number
Breach of the duty to maintain the principles of objectivity and balance in political programs and particularly ensure that no political party or movement is favored Section 31 (2) and (3) of the Broadcasting Act	4
Breach of the duty not to show, without justification, dying people or people exposed to heavy physical or mental torture, doing so in a manner detrimental to human dignity Section 32 (1) (f) of the Broadcasting Act	1
Breach of the prohibition of broadcasting programs and spots that could endanger physical, mental or moral development of children and youth from 6:00 A.M. to 10:00 P.M Section 32 (1) (g) of the Broadcasting Act	38
Breach of the duty to keep recordings of all broadcast programs for a period of at least 30 days from the date of their broadcasting and provide them to the Council Section 32 (1) (j)	3
Breach of the duty to state the designation of the television program (logo) in television broadcasting, except for broadcasting of advertising and teleshopping Section 32 (1) (l)	1
Breach of the duty not to include in broadcasting advertising and teleshopping supporting conduct which endangers morality, customer interests or interests of health protection, safety or the environment Section 48 (1) (a)	5
Breach of the duty not to include surreptitious and subliminal advertisements and teleshopping in broadcasting Section 48 (1) (g) of the Broadcasting Act	7
Breach of the duty of the broadcaster to ensure that advertisements and teleshopping are distinguishable and clearly separated, for radio broadcasters, by sound, and for television broadcasters, by sound or picture or sound and picture, from other programs Section 48 (4) (a) of the Broadcasting Act	8
Breach of duties in including advertisements and teleshopping in the program Section 50 of the Broadcasting Act	12
Failure to include a program in the minimum program offer Section 54 (2) of the Broadcasting Act	1
Non-compliance with the license conditions Section 60 (2) (g) of the Broadcasting Act	2

### Suspended proceedings

Reasons	
preliminary issue	1
pending court proceedings	1

### Survey of notices and fines for breach of duties stipulated in the Advertising Act

#### Imposed fines

Breach	Number
Breach of the prohibition to advertise goods, services or other performances or values, whose sale, provision or dissemination is at variance with legal regulations Section 2 (1) (a) of the Broadcasting Act	1
Breach of a duty in broadcasting an advertisement featuring a special offer Section 2b of the Act on Advertising	2

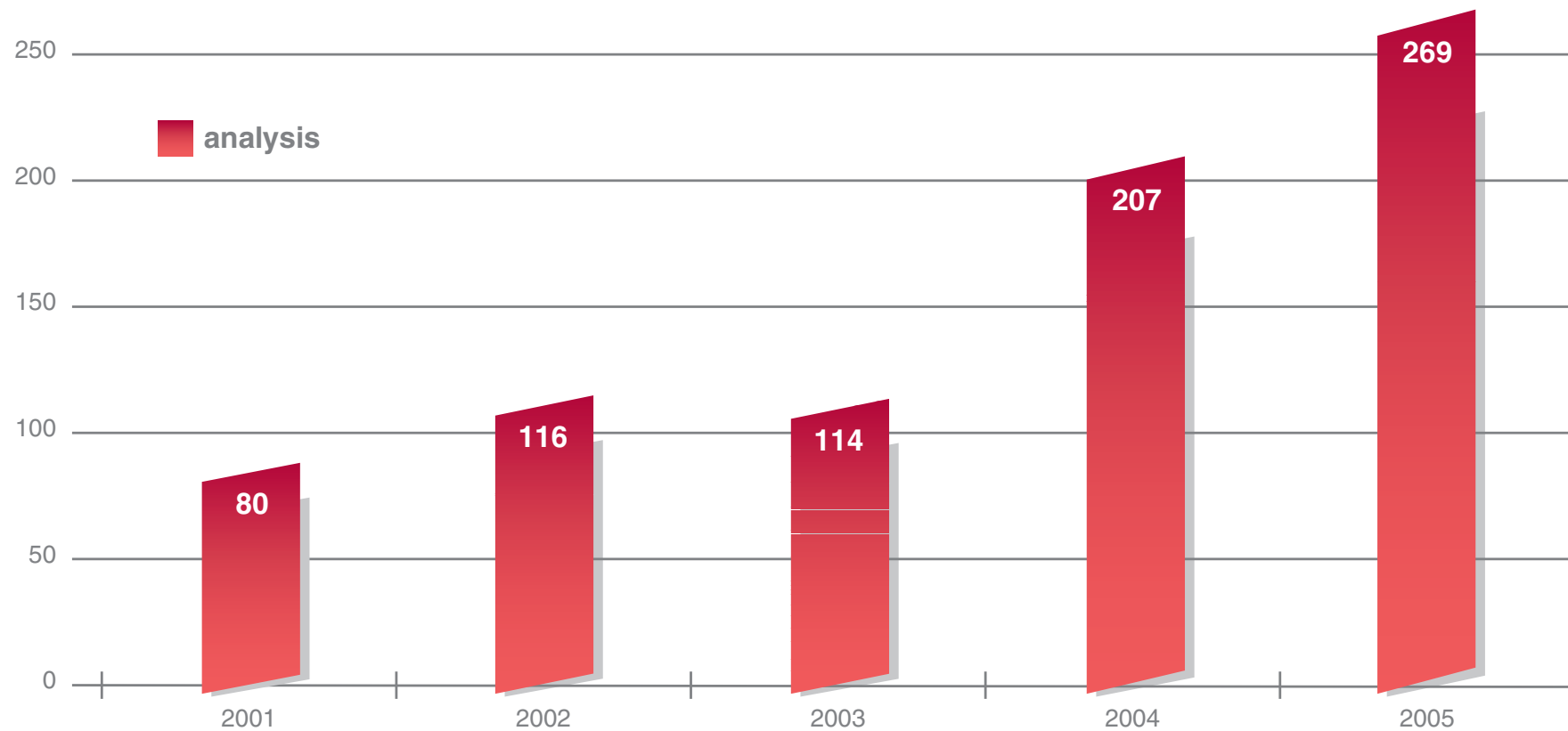
**Commenced proceedings**

Breach	Number
Breach of the prohibition to advertise goods, services or other performances or values, whose sale, provision or dissemination is at variance with legal regulations Section 2 (1) (a) of the Broadcasting Act	1
Breach of the prohibition of misleading advertising Section 2 (1) (c) of the Broadcasting Act	3
Breach of a duty in broadcasting an advertisement featuring a special offer Section 2b of the Act on Advertising	1

**Suspended proceedings**

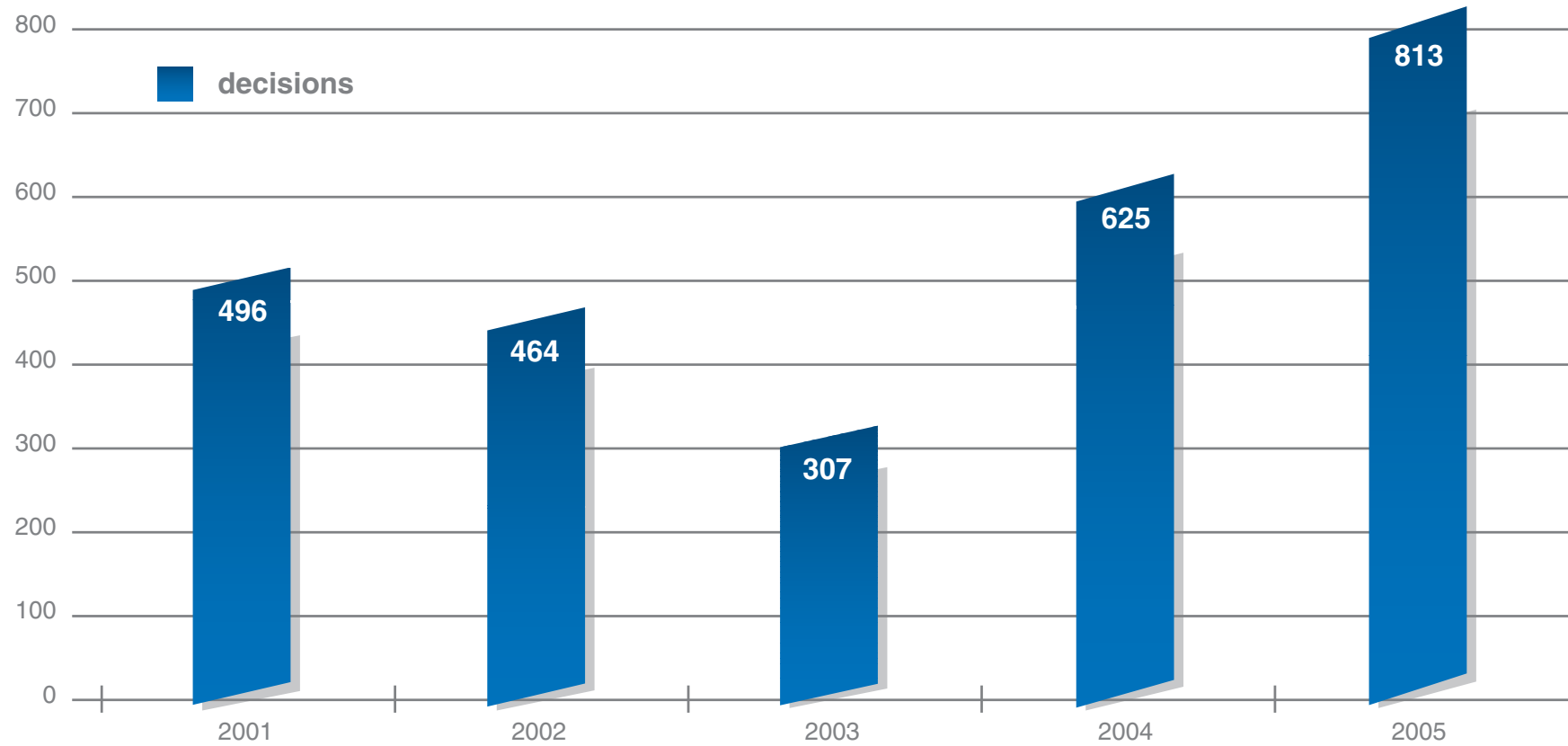
Breach	Number
Breach of the prohibition of misleading advertising Section 2 (1) (c) of the Broadcasting Act	13

## Survey of the number of analyses performed in the 2001-2005 period



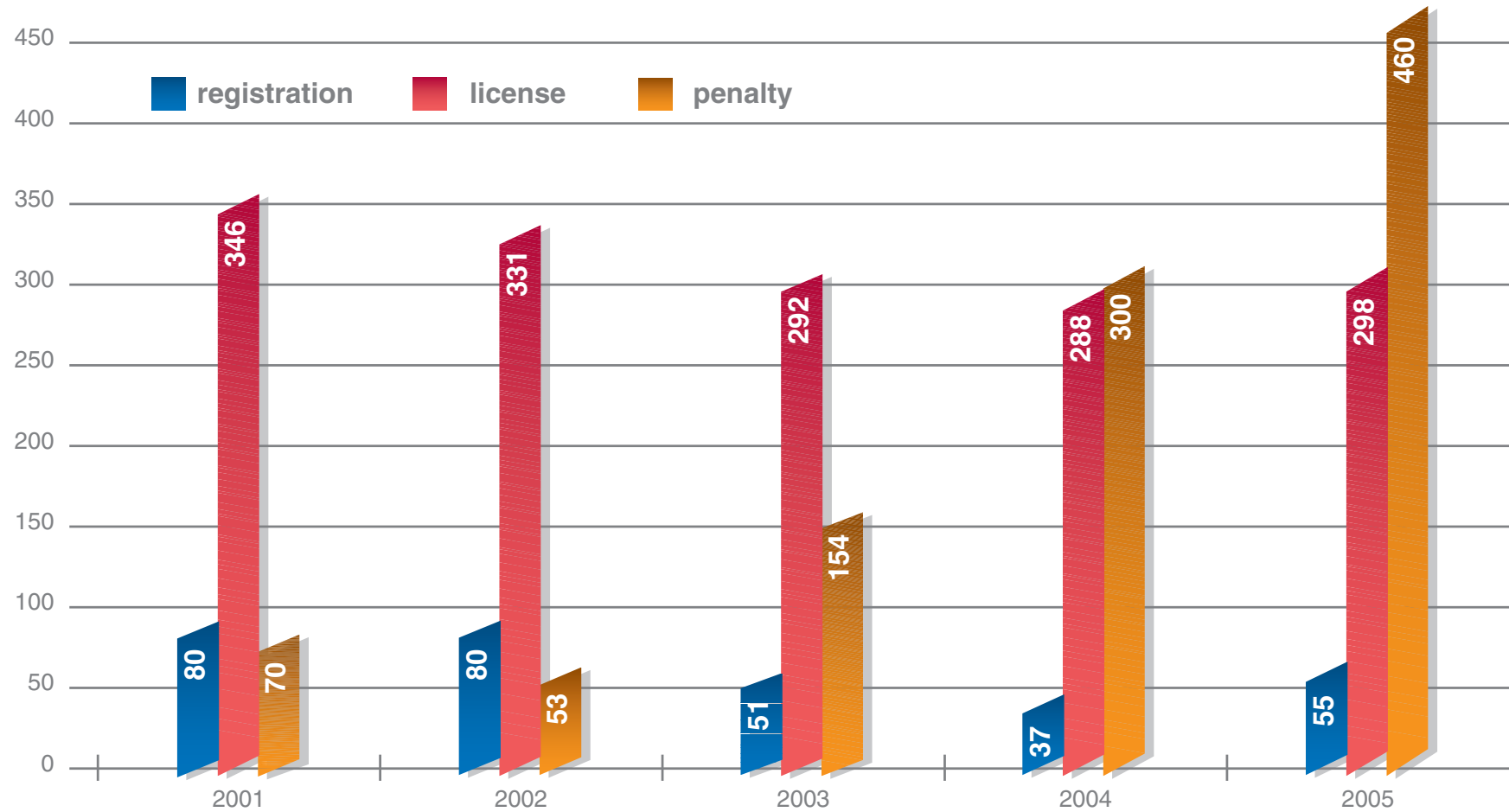
Source: RRTV

## Survey of the number of decisions of the Council issued in the 2001-2005 period



Source: RRTV

## Survey of the number of decisions of the Council according to the individual types of proceedings



Source: RRTV

## Big Brother and VyVolení reality shows

Before the VyVolení and BigBrother reality shows were broadcast, the Council was well aware that this would be a situation without precedent in this country – both from the standpoint of the actual type of broadcasting and from the standpoint of its overall social impact. Consequently, it searched for a means of meeting its obligations and simultaneously of approaching the entire phenomenon of reality shows in the most appropriate possible manner. Specifically, this would, on the one hand, mean to be sufficiently active and not simply react post factum to actions of further participating “players” and, on the other hand, properly evaluate the entire process in a broader, i.e. social, medial and professional context. We will now describe the brief characteristics of this context, as it provides information important for better understanding of the approach of the Council.

### Social, medial and professional context

#### a) Reality shows and their overall impact

It will, of course be possible to assess the actual, and especially long-term impact of these shows only retrospectively, as this will frequently be reflected in the actions and thinking of contemporary child viewers only after a number of years. Here, three quotations will be used to document that television stations were aware of the effect that their broadcasting would have and that the first impressions even exceeded expectations:

“The Big Brother reality show offers emotions, drama, humour, romance, conflicts, tension and competitive conflict between participants. Its inclusion in the program of television Nova thus introduces a really broad social phenomenon, which will certainly affect Czech households, their everyday lives and emotions, as has happened in a great many other countries where it has been introduced. In addition, Big Brother is not only a television show, but a truly multimedia project.”

Veronika Šmítková, press agent of TV Nova (official Big Brother web site)

“The principle of its attractiveness lies in watching people who must live, eat, spend time ... together“ said Leoš Mareš with all seriousness. He did not realize that the first shots of real competitors in the house would depict a drunken teacher, who crawled after a court reporter in a whirlpool, a showering naked erotic club employee or a businesswoman spitting into a condom.

Vladimíra Šumberová (MfDNES September 3, 2005)

“Regina brought a very dramatic and simultaneously a very dangerous element into the program”, said Cimický. “Prima managed to create a certain sample of the population, which is guaranteed to entertain the nation. In short, reality shows are a phenomenon that promises to really set people thinking”.

(MfDNES September 5, 2005).

#### b) The public – as viewers and complainants

The attitude of the public towards these two reality shows can be assessed on the basis of various sources. The three listed below are fundamental:

- The overall attitude of the public was assessed in a representative survey performed by SC&C for iDNES (presented on September 15, 2005). Only the two main outputs will be described here:
  - these reality shows are obnoxious for 40% of the public and don't bother 60% (of which 27% like them)
  - 59% of those questioned thought that school-age children should not view these shows, while 41% thought that they could.

The UPC company performed a survey in 14 countries of Europe in December: More than half the public in the Czech Republic is now interested in reality shows of the Big Brother and VyVolení types. A further 27 percent is not interested in these competitions and stated that these are programs that they do not like at all. Thus, the Czech Republic is in third place behind Romania and Slovakia in the level of popularity of reality shows amongst viewers.

- Between 1 and 2 million viewers watched the VyVolení program before 10 o'clock in the evening, while, with a few exceptions of between 1.5 and 2 million, between 600 and 900 thousand viewers watched Big Brother.
- Complaints that were addressed to the Council:  
In the first month, 214 written and many dozens of telephone complaints were obtained;

overall there have been more than 500 complaints (which continue to arrive). Viewers, who generally complained about both programs simultaneously (where they complained about only one program, then, understandably with the exception of the first week, this was always the Big Brother series), were most annoyed by a certain type of aggressiveness, manifested in vulgarity with various forms of verbal and nonverbal aggression, constant smoking and drinking of alcohol with regular drunkenness, and the manner in which a number of participants (and especially female participants) approach sexual behaviour.

Some general conclusions can be drawn from the complaints received:

- a. The vast majority of the written complaints arrived by e-mail; it very frequently followed from the text that these were middle-aged people – especially the parents of school-aged children.
- b. The complainants most frequently mentioned the features that were already diagnosed by the analysis of the Analytical Department and which are also mentioned in the reasoning of the Council (which was also confirmed by the survey of iDNES).
- c. The vast majority of the complainants considered it a failure of the Council that it allowed such a broadcast at all or that it had not already forbidden such broadcasting (the Czech public has no idea of the actual powers of the Council and of how regulation works in this country).
- d. The public is practically not informed of what the Council has done in this respect and is certainly not informed in detail of the actual reasons for the actions of the Council.

#### c) Professional debate

The phenomenon of reality shows and their impact on individuals and on society as a whole has also been the subject of a certain professional debate. In comparison with the every-day massive publicity of happenings in the “villa” or in the “house” and the related agendas about the individual participants, their lives and backgrounds and also about the moderators, the actual professional debate was very limited and has not exceeded a few dozen articles (including a number of periodicals with a small circulation). The content of the debate demonstrated that there is a substantial part of the professional public that is aware of the danger that these programs constitute for children and adolescents (and, in fact, for society as a whole), that there are, however, those that throw doubt on such an attitude or – although rarely, but very vehemently – reject it. Three basic variants appeared in the debate:

- This is a not very desirable phenomenon and it should be combated at the level of media regulation (better known authors include, e.g. Tomáš Halík, Ivan O. Štampach, Václav Havel, Marta Davouze, Jeroným Klimeš) and this can be readily summarized in the standpoint of the media sociologist, PhDr. Jaromír Volek of Masaryk University in Brno: “A wise person knows that it is better not to risk where danger threatens”.
- This is a problematic phenomenon, but its regulation is also problematic, because there is no definitive proof of the harmfulness of such broadcasting for the development of children and adolescents (expressed, e.g., in an interview with Petr Weiss).
- A reality show only “realistically” depicts our actual world – and thus it is suitable for children to be confronted with this (e.g. Hana Fifková in the article Let’s not cover up children’s eyes).

### **Approach of the Council**

Within the framework that the legislation provides to the Council for its work, and simultaneously respecting the above-described broader context, the Council chose an approach based on the following principles:

- offensive approach: From the very beginning, base action on systematic monitoring and program analysis of all the broadcast programs in both series before 10 o’clock in the evening. In contrast to general conceptions, the decisive instigation for action by the Council was not viewers’ complaints in this case, but rather its own continuous monitoring and its professional evaluation. This also enabled commencement of administrative proceedings with both operators within three weeks of the start of the serial (and within fourteen days of the occurrence of the first detrimental features).
- appropriate methodology for evaluation: Evaluate both competitions as a whole

and assess the overall tenor of this format and its impacts on children and adolescents – with selection of characteristic phenomena of the presented behaviour endangering children and adolescents.

From the standpoint of the Council, these phenomena were as follows:

- a) objectionable forms of communication – aggressiveness, vulgarity, destructive communication, slander, bullying – presented without any form of corrective information for child viewers;
- b) presentation of sexual subjects in a manner unsuitable for children – consumption or commercially oriented sexuality, promiscuity, manipulative abuse of sexuality, failure to respect the intimacy of other people;
- c) permanent presentation of smoking as a normal form of behaviour of young people, which naturally belongs to them;
- d) presentation of consumption of alcohol as a constant part of the lives of young people – including drunken behaviour, in which the participants completely lose dignity;
- e) presentation of various kinds of immoral behaviour as possible (or even suitable) forms of dealing with one's own problems, frequently with substantial support (or even initiation) from the organizers of the competition, enticement to "peeping" without any moral considerations.

The first two objectionable phenomena were originally characteristic especially for *VyVolení*, but later mainly for *Big Brother* (after exclusion of the persons mainly responsible for the objectionable types of behaviour). The massive presentation of smoking accompanied both serials from the very beginning to the end (in *Big Brother*, the vast majority of the 35 competitors were obviously addicted smokers). The presentation of consumption of alcohol leading to drunkenness was typical for the *Big Brother* serial, as were various types of immoral behaviour presented as an acceptable means of resolving situations (theft, feigning a relationship, hurting another person without reason), which was, in addition, mostly initiated by the organizers of the competition.

For comparison, typical features of objectionable behaviour in the Slovak standard "Uniform system of designation of programs from the standpoint of suitability for a certain age" can be cited:

In the classification of programs, the broadcaster shall evaluate the content of the programs according to the criteria:

- a) physical, psychological or verbal aggression,
- b) sexual relations or scenes,
- c) nakedness in a sexual context,
- d) vulgar language,
- e) drug, gambling or other dependence, drinking alcohol or smoking,
- f) the presence of depiction or other manifestations, causing a feeling of fear, depression, helplessness or otherwise unsuitable feelings in relation to the level of perception and thinking, which could lead to disproportionate interpretation of communication or any imitation of behaviour, especially in the categories of minors from 0 to 7 years of age or from 0 to 12 years of age. (Article IV.)

However, in addition to the individual phenomena, this type of reality show is also harmful in its overall message, which was clearly expressed, e.g., by Petr Weiss:

"Basically, it constitutes the loss of any criteria whatsoever. Fundamentally, people become celebrities in this way and fill whole pages in national newspapers that cannot be considered to be tabloids. The principle lies in the fact that a person can become a celebrity without any performance at all. Without accomplishing anything at all, being capable of anything at all, purely his simple existence is sufficient for him to fill the front pages of newspapers. I think that this can attract a great many people, who are not even aware of the fact that they are told: "There you see, you could do this too. It is enough to just exist, and you can be famous".

– communication with operators: In an attempt to find a solution that would respect the requirements of the law and simultaneously be realistic, the Council invited both participants to an oral discussion. Unfortunately, this did not lead to any shift in the broadcasting or in the attitudes of the operators. They continued to insist that the broadcasting does not contain anything that could endanger the physical, mental or moral development of child viewers, as nothing has so far "convinced" them of this fact. (See also below)

– consistency in decision-making: Here it was a matter, on the one hand, of evaluating the occurrence of the individual objectionable phenomena and their seriousness and, on the other hand, of a certain consistent approach. The reason for the change in the original approach, where the Council evaluated a certain period (from the beginning of broadcasting to September 15), to evaluation of each program, was the evident unwillingness of the operators to react in any way to the criticized phenomena (endangering children and youth) that were massively present in their reality shows.

– the aptness of fines: This followed directly from the previous consistency of evaluation of the individual objectionable phenomena and the proportionality to other fines previously imposed for breach of Article 32 (1) (g). The following table gives a survey of fines imposed in 2005:

<b>VyVolení total CZK 22 000 000</b>		<b>Big Brother total CZK 25 000 000</b>			
Aug. 19 to Sept. 15	5 000 000	Aug. 28 to Sept. 15	4 000 000	Oct. 3	1 000 000
Sept. 16	3 000 000	Sept. 18	2 500 000	Oct. 8	500 000
Sept. 17	2 500 000	Sept. 19	1 500 000	Oct. 9 (11.45)	500 000
Sept. 19	2 000 000	Sept. 25	1 500 000	Oct. 9 (20.00)	1 500 000
Sept. 21	1 000 000	Sept. 26	2 500 000		
Sept. 22	1 000 000	Sept. 27	2 000 000		
Sept. 24	1 000 000	Sept. 28	2 000 000		
Sept. 29	3 000 000	Sept. 29	1 000 000		
Oct. 1	1 000 000	Sept. 30	1 000 000		
Oct. 8	1 500 000	Oct. 1	2 000 000		
Oct. 10	1 000 000	Oct. 2	1 500 000		

– cooperation with professionals:

The Council was aware of the fact that, according to the opinion of the Constitutional Court in the Fidorka case, an expert report in relation to endangering of moral development of youth is not a necessary precondition for decision-making by the Council. Nonetheless, in relation to the seriousness for the whole of society and the precedential nature of resolving this case, the Analytical Department of the Office of the Council requested a professional standpoint from the workplaces listed below. The standpoint was prepared on the basis of viewing and detailed analysis of individual parts of the serial:

- the psychologist Jeroným Klimeš – for the period from August 19 to September 15; for the period from September 16 – 29; especially VyVolení on September 22
- A psycho-social university team headed by the psychologist Jiří Růžička – for the period from August 19 to September 15
- the pedagogical section of the Ethics Forum of CR – for the period from August 19 to September 29
- the child sexologist Jana Spilková and child psychologist Jaroslav Šturma – for the period from September 16 - 29
- the family consulting centre of the Olomouc Region headed by psychologist Lubomír Smékal – for the period from September 16 to 29.

The department also had at its disposal the viewpoint of the psychologist Václav Břicháček, the report of the child psychologist Jana Procházková (which FTV Prima had prepared for the first period and which in no way supports the standpoint promulgated by the participant that the broadcasting of VyVolení does not entail any problems) and a number of other individual professional viewpoints, either on the reality shows themselves or on the subject of the impact of television broadcasting on children and adolescents in relation to specific phenomena occurring in the reality shows.

The unambiguous conclusion of all these professional documents is that both reality shows contain a great many features that can endanger the moral, mental and even physical development of child viewers.

The Council had these professional documents at its disposal either directly or through materials, on the basis of which the Council made its decisions.

## Reactions of operators

Both the operators fundamentally rejected the conclusion that the broadcasting of their reality shows before 10 o'clock in the evening would present something that could endanger the healthy development of children and adolescents.

The arguments that they employed can be characterized as follows:

a) The Council is professionally incompetent – on the other hand, we have professional statements that fully support us.

The operators used this argument especially at the beginning when they assumed that the Council did not have its own professional standpoint at its disposal. It is typical that the operators never stated publicly from whom they actually obtained these professional standpoints (and the media never requested that they provide this information). Over this entire time, FTV Prima provided the Council with only one standpoint (from psychologist Jana Procházková) and this certainly did not defend the position of FTV Prima. In its statements, CET 21 cited psychologist Slavomil Hubálek (but always only in one or two sentences); however, this expert clearly declared that children may watch these programs only in the presence of their parents (which the television station can, of course, not ensure). At the beginning, they also cited the psychiatrist Robert Kučera in relation to the aspect of consumption of alcohol (the actions of the drunken people is disgusting and thus has the proper teaching effect).

b) The criticized phenomena occasionally occur in our programs but they are either so repulsive that they lead to reinforcement of the proper attitudes amongst child viewers or involve a type of behaviour that children and adolescents normally encounter in reality and in other programs.

Here, the operators ignore some basic facts that are fundamental for evaluating the seriousness of potential danger to children and adolescents:

- the competitors are especially attractive identification idols for children and adolescents as – in contrast to “imaginary” figures (films, serials) – they can see them (and in fact do see them – as is reflected, e.g., in internet debates) as “one of us”;
- participants in the competition are rewarded (by popularity and materially), not because they play a role written by someone else, but for acting for themselves;
- in contrast to “imaginary” figures, the winner of this competition obtains a real – “not imaginary” – multimillion reward; social recognition is thus clearly confirmed;
- in contrast to films or episodes (detective) serials, the conflicts are not concluded with a moral order in the framework of the individual parts of this competition (and frequently not even in the framework of many weeks) – for example, in that aggressive evil would be punished (as commonly occurs in a good detective story);
- the effect of the serial on children and adolescents is incomparably greater than anything that has heretofore existed in this country through the impact of television on children and adolescents; this is a consequence both of the extent of the broadcasting itself and through the secondary social and media “agenda” exploiting this phenomenon (e.g. even the largest Czech newspapers have daily articles on VyVolení, good knowledge of VyVolení is frequently a basic precondition for prestige amongst groups of children of the same age, etc.).

c) The criticized phenomena don't occur in the broadcasting at all and it is up to the Council to prove that something of this nature was presented.

The classification of the objectionable phenomena carried out by the Council and its Office was certainly not unjustifiable (this is indicated, e.g., by the obvious compatibility with the Uniform system of designation of programs from the standpoint of suitability for a certain age, which is employed in Slovakia as a binding standard). In addition, the professional standpoints that were prepared for the Council widely use this classification.

d) Programs like this are broadcast throughout Europe and there were no problems anywhere else.

This description of conditions does not correspond to reality. In Slovakia, both reality shows were the subject of a number of fines (especially Big Brother); it was confirmed at the autumn meeting of the Council with similar regulation authorities in Budapest that problems were encountered in Hungary, Bulgaria and Albania. In the traditional western democracies, a real society-wide

debate has been and continues to be held on the phenomenon of reality shows. The regulation authority intervened in Portugal (fines) and in France (substantial changes occurred in broadcasting). Of more recent standpoints, we cite the declaration of the Bavarian regulation authority: This systematic lack of respect for social standards and the conscious instigation of breaching of taboos cause an intentional shift in limits to gain greater attention from the public. Basic values, such as respect for privacy and the right to intimacy, are undermined. The viewer is enticed into the role of a voyeur, who enjoys the physical and psychological affliction of other people. As an overall tendency, this constitutes liquidation of ethical values, such as respect, compassion and esteem for personal integrity. Socially accepted values are undermined in their practical significance. The Council views the danger to the development of youth with great trepidation. Compared to adults, children and adolescents are far less stable in their personal and value development and are dependent on examples and model roles. In addition to people in their nearby social surroundings (parents, teachers, friends), persons in the media have an increasing effect on children and adolescents. When antisocial types of behaviour are presented publicly, then, in the sense of a negative model function, this can legitimize and enforce existing tendencies to exclusion and humiliation amongst children. This is in no way changed by the consent of persons participating in such a program. In relation to the social consensus of values, this development is problematic not only for children and adolescents.

e) The programs in question are not educational programs – it is up to parents to properly fulfil this function and it cannot be required of commercial television. Programs affect children (and, after all, also adults) without regard to whether they are declared to be educational or not. Although the role of parents is indubitable and their responsibility for the protection of children is of the first importance, in the light of the fact that tens of thousands of children watched these programs on a daily basis and many of them do so in the absence of their parents (about 1/3 of children now have their own television sets in their rooms), the responsibility of operators towards these children is also indubitable (and is, in fact, the intention of the relevant provision of Article 32 (1) (g)).

f) The Council is culpable of procedural errors. These objections have appeared recently – after the operators found that it will not be a simple matter to defend their broadcasting at a substantive level. This will certainly be the main subject of court disputes.

## **Suggestions**

The adoption of a similar document to the Slovak Uniform System of designation of programs from the standpoint of suitability for a certain age would be very beneficial for decision-making by the Council and transparency of the entire environment. This document lays down rules that set parameters for the public and for the operators themselves that need not be the subject of battles on their correctness and the necessity for respecting them in each individual case.

Developments to date have also demonstrated that the Council does not have the necessary instruments to effectively confront situations where operators breach the law in such a massive and consistent manner.

**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]**

**The Council grants licenses in two types of license proceedings, namely:**

1) proceedings on granting a license to operate terrestrial radio and television broadcasting pursuant to Title I of the Broadcasting Act, which are announced by the Council and are common for all applicants who lodge their application within the set deadline and meet the conditions stipulated in the Broadcasting Act. The license proceedings include a public hearing, where the applicants present their program plans and propose the wording of the license conditions. In making its decision as to which of the parties to the proceedings will be granted a license, the Council is governed by statutory facts important for decision-making and stipulated in Section 17 of the Broadcasting Act.

2) license proceedings on radio and 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. In this type of the proceedings, the discretion of the Council 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. It has no other discretion within these license proceedings.

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 all the requisites as an application lodged within (proper) license proceedings and 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. This term may be either a continuous time period or an aggregate of shorter time periods or individual days, according to the needs of the broadcaster; however, it may not exceed a total of 60 days during a single calendar year.

Apart from the requisites of an application for a short-term license, the Broadcasting Act stipulates no further conditions or criteria for granting a short-term license; thus, the Council makes its decisions according to the circumstances of individual cases. The institute of a short-term license responds to the practical requirements to allow for creation of a special program and its territorially limited dissemination within temporally limited events, such as fairs, exhibitions or conferences. The purpose of a short-term license for test broadcasting is to verify the technical quality of broadcasting under certain, objectively complicated conditions, following, e.g., from an uncertain frequency or use of a new technology. Digital broadcasting (the DVB-T and DVB-H systems) was a typical example of a short-term license for test broadcasting in 2005. In its decision-making on granting a short-term license, the Council ensures that this license does not replace – not even temporarily – a (proper) license; in case of a license for test broadcasting, it also ensures that the testing character of broadcasting (a set of elements related to a certain experiment) is adequately demonstrated.

Tab. No. 1:

**Survey of proceedings on granting a license**

type of broadcasting	number of proceedings/ of which renewed	decisions	pending
radio broadcasting through terrestrial transmitters	6/5	5	1
television broadcasting in the DVB-T system	2	-	2
television broadcasting via satellites	9	9	-
television broadcasting via cable systems	5	5	-
television broadcasting via cable systems and satellites	2	2	-
short-term licenses	5	5	-

## **Proceedings on granting a license for radio and television broadcasting by means of terrestrial transmitters**

### **Proceedings on granting a license for radio broadcasting by means of terrestrial transmitters**

Aspects of decisions made in license proceedings and later cancelled by courts

An analysis of canceled decisions indicated that the courts consider it necessary to provide specific and detailed reasoning of all verdicts of the decision, including rejecting decisions; also in relation to the individual parties to the proceedings, whose applications were dismissed, the written reasoning must clearly indicate on what grounds their applications were dismissed, with respect to the criteria stipulated in Section 17 of the Broadcasting Act. According to the courts, the reasons must be specified in sufficient detail enabling to ascertain the different degree of satisfying the criteria for granting a license by various applicants and the borderline and the criterion for distinguishing the successful applicant from other, unsuccessful applicants. Simultaneously, the courts emphasized that they do not intend to substitute the activities of an administrative body, that the reasoning must clearly indicate the contents of discretion permitted by law and that such discretion must be based on the file and must be reviewable by the courts.

After canceling a decision on granting a license (individual verdicts of the decision), the Council also dealt with formal legal problems consisting in different case-law of the first instance court in the framework of judicial review of administrative decisions. Thus, one senate of the Municipal Court in Prague canceled only the contested verdicts of the decision based on an action lodged by an unsuccessful applicant for a license, while, in a different case, another senate canceled the decision on granting a license as a whole, i.e. all its verdicts (on granting the license and on dismissal of applications).

This issue was partly clarified by the judgment of the Supreme Administrative Court of November 30, 2004, Ref. No. 3 As 24/2004-79, cancelling the resolution of the Municipal Court of January 26, 2004, Ref. No. 38 Ca 597/2002-55, on the action of the WebValc company against the decision of the Council of March 19, 2002, Ru/71/02 (granting a license in the area of Ostrava – Slezská 94.7 MHz/1 kW to the Fajront BS company). The Supreme Administrative Court came to the conclusion that, in case of a decision of the Council on (non-)granting a license for radio broadcasting, an unsuccessful party to the proceedings may, in the sense of Section 19 of the Broadcasting Act, contest also the verdict on granting a license issued in the same proceedings and within the same decision.

In the cited judgment, the Supreme Administrative Court concluded that the plaintiff was a party to the license proceedings and undoubtedly, on the basis of a decision of the Council, could have become a holder of the right that was subject to the proceedings, i.e. authorization for radio broadcasting. Section 19 of the Broadcasting Act expressly permits to contest through an action a verdict of a Council decision on dismissal of a license application; however, in the given case, the plaintiff expressly contested also the verdict of the Council decision through which a license was granted to another party to the proceedings.

In the opinion of the Supreme Administrative Court, assessment of this issue must be based on the logical interconnection of the verdicts. A license is inseparably connected with the technical means (the specific frequency for the given area of broadcasting) and only one license can be granted within specific license proceedings. Strict interpretation of Section 19 of the Broadcasting Act would exclude the possibility to challenge a decision of the Council also in relation to a positive verdict on granting a license to another entity, which could result in existence of a final administrative decision on granting a license to one entity and simultaneous existence of pending administrative proceedings on issuing a license to another entity, which is not possible by definition, as both these entities are parties to the same proceedings concerning the same right. According to the Supreme Administrative Court, the verdicts may be mutually dependent, where the contents of the first verdict automatically determine the contents of the second verdict.

The Supreme Administrative Court derived this mutual dependence also from Section 66 of the Broadcasting Act, pursuant to which an action has a suspensory effect, which would lack any sense whatsoever in relation to a rejecting decision, which does not directly establish any rights. A decision as such (i.e. particularly in relation to its positive verdict) would be practically unchangeable and the suspensory effect would be absolutely useless. In contrast, a suspensory

effect is perfectly sensible in relation to the decision as such, because if the given action is successful it might be necessary to revoke the decision, with possible impact on the positive verdict.

Indeed, the tasks of the Supreme Administrative Court include unification of case-law of lower-instance courts on administrative matters and, therefore, the question of interpretation of Section 19 of the Broadcasting Act can be considered to be resolved.

#### **Renewed license proceedings with respect to the set of technical parameters of the Ostrava – Dobroslavice 94.7 MHz/1 kW frequency**

In renewed license proceedings, the Council again granted a license to Fajront BS for a fixed term to June 17, 2010. It granted this license in relation to the judgment of the Municipal Court in Prague of January 31, 2005, which quashed the decision of the Council of March 19, 2002 on granting a license and returned the case for further proceedings.

On the basis of a request of the Council to supplement the petition, the applicant, Roman Jeřábek, stated in his letter of March 24, 2005 that he did not insist on his application. Dům kultury Vítkovice (after a change in the business name, Dům kultury města Ostravy) also notified that Council, through its petition of March 24, 2005, that it did not insist on its original application. The Council terminated the license proceedings with these applicants on April 13, 2005.

Furthermore, the Council received applications for a license from companies Definitely, Pulary and Helax. However, the applications of Definitely and Pulary were dismissed by the Council for statutory reasons by its decision of December 18, 2001 and the application of Helax was dismissed by the Council for statutory reasons by its decision of January 2, 2002.

Tab. No. 2:

List of parties to the proceedings including the name of program and Council decision

Party to the proceedings	Identification of program name	Council decision
City Multimedia	Radio Silesia	application dismissed
Colour Production	Spirála	application dismissed
En – Daxi	Radio Apollo	application dismissed
Fill Radio	Fill Radio	application dismissed
Hrad Media	Sport Radio	application dismissed
Noemi Trading	Rádio Radián	application dismissed
Ostravská zábavní a produkční	Cafe Radio	application dismissed
Palchem Finance	Music radio	application dismissed
Radio Morava	Kiss Morava	application dismissed
Radio Production	Radio 94,7	application dismissed
Rehabilitační centrum Havířov	Radio Kelly	application dismissed
WebValc	Radio Brno Valc	application dismissed
Fajront BS	Radio Fajront FM	license granted to 17.6.2010

#### **Renewed license proceedings with respect to the set of technical parameters of the Prague 96.2 MHz/1 kW frequency**

In renewed license proceedings, the Council again granted a license to Radio Twist Praha for a fixed term to July 7, 2010. It granted this license in relation to the judgment of the Municipal Court in Prague of October 27, 2004, which quashed the decision of the Council of 14.05.2002 on granting a license and returned the case for further proceedings. Only Radio Twist Praha and Max Loyd were parties to the proceedings, as no other verdicts of the previous decision of the Council were prejudiced by the aforementioned judgment of the Municipal Court in Prague and, thus, those verdicts remained unchanged and valid. Therefore, the Council could no longer discuss and make a decision on applications of those parties in relation to which the verdicts were not quashed by the court. Thus, the Council acted within the scope within which the case was returned to it for further proceedings by the verdict of the aforementioned judgment.

Tab. No. 3:

**List of parties to the proceedings including the name of program and Council decision**

Party to the proceedings	Identification of program name	Council decision
Max Loyd	Radio Info	application dismissed
Radio Twist Praha	Radio Twist	license granted to 7.7.2010

**Renewed license proceedings with respect to the set of technical parameters of the Prague – Vinohrady 89.0 MHz/0.158 kW frequency**

The Council granted a license to Max Loyd within renewed license proceedings concerned with a set of technical parameters of the Prague – Vinohrady 89.0 MHz/0.158 kW frequency for a fixed term to July 8, 2012 in relation to the judgment of the Municipal Court in Prague of December 10, 2004, which quashed the decision of the Council of July 7, 2004 on granting a license and returned the case for further proceedings.

The renewed license proceedings subsequent to the legal force of the aforementioned judgment were concerned only with applications of Max Loyd and Dada Media. This was based on the fact that no other verdicts of the previous decision of the Council were prejudiced by the aforementioned judgment of the Municipal Court in Prague and, thus, those verdicts remained unchanged and valid. Therefore, the Council could no longer discuss and make a decision on applications of those parties in relation to which the verdicts were not quashed by the court. Thus, the Council acted within the scope within which the case was returned to it for further proceedings by the verdict of the aforementioned judgment.

Tab. No. 4:

**List of parties to the proceedings including the name of program and Council decision**

Party to the proceedings	Identification of program name	Council decision
Max Loyd	Info Radio	license granted to 8.7.2012
Dada Media	Rádio Limonádový Joe	application dismissed

**Renewed license proceedings with respect to the set of technical parameters of the Česká Lípa 103.3 MHz/0.2 kW, Liberec – Výšina 97.1 MHz/1 kW and Liberec – Javorník 95.5 MHz/0.2 kW frequencies**

The Council granted a license to Rádio Podještědí for the set of technical parameters of the Česká Lípa 103.3 MHz/0.2 kW, Liberec–Výšina 97.1 MHz/1 kW and Liberec–Javorník 95.5 MHz/0.2 kW frequency within renewed license proceedings for a term of eight years from the legal force of the decision, based on the judgments of the Municipal Court in Prague.

Three actions were lodged against the previous decision on granting a license of November 24, 2004, namely by companies Country Radio (judgment of the Municipal Court in Prague April 22, 2005), Kalendář Liberecka (judgment of the Municipal Court in Prague of May 6, 2005) and Radio Ještěd (judgment of the Municipal Court in Prague of May 12, 2005).

The renewed license proceedings subsequent to the legal force of the aforementioned judgment were concerned only with applications of the parties to the proceedings. This was based on the fact that no other verdicts of the previous decision of the Council were prejudiced by the aforementioned judgments of the Municipal Court in Prague and, thus, those verdicts remained unchanged and valid. Therefore, the Council could no longer discuss and make a decision on applications of those parties in relation to which the verdicts were not quashed by the court. Thus, the Council acted within the scope within which the case was returned to it for further proceedings by the verdict of the aforementioned judgment.

Tab. No. 5:

**List of parties to the proceedings including the name of program and Council decision**

Party to the proceedings	Identification of program name	Council decision
Rádio Podještědí	Radio Hey sever	license granted for a term of 8 years
Country Radio	Country Radio	application dismissed
Kalendář Liberecka	Dobry Den	application dismissed
Radio Ještěd	Radio Ještěd	application dismissed

## Renewed license proceedings with respect to the set of technical parameters of the Benešov– Kozmice 89.3 MHz/5 kW frequency

Tab. No. 6:

### List of parties to the proceedings including the name of program and Council decision

Party to the proceedings	Identification of program name	Council decision
City Multimedia	Rádio Pohoda	application dismissed
Country Radio	Country Radio	application dismissed
Joe Media	Rádio Sázava	application dismissed
M-Publicity	Rádio Sázava	application dismissed

Through decision Ref. No. Rp/40/02 of January 8, 2002, the Council refused to prolong the term of the license granted on the basis of decision Ref. No. Ru/169/99 of July 1, 1999 to the Presston company, which had broadcast the program of Rádio Presston. On May 14, 2002, the Council resolved to commence license proceedings on granting a license with the use of a frequency used until January 22, 2003 by Presston, i.e. frequency Benešov – Kozmice 89.3 MHz/5 kW. 16 companies, including Presston, registered for the license proceedings. On November 5, 2002, through Decision Ref. No. Ru/259/02, a license for radio broadcasting of Rádio Sázava was granted to M-Publicity for a term of eight years, while the applications of other 14 applicants for a license were dismissed by the Council. The license application of one of the companies applying for a license was rejected for statutory reasons. After granting the license, specifically, in relation to the Council as of December 19, 2003, disputes arose within the company, manifested especially by disputes on the statutory body, the date of the legal force of the decision on granting the license and also of the legal title to actual broadcasting, which was commenced by the company prior to the statutory deadline - 180 days after the legal force of the decision, i.e. before June 17, 2003. On the basis of an action lodged by Presston on November 5, 2002, the Municipal Court in Prague cancelled decision of the Council Ref. No. Ru/259/02 of November 5, 2002 on granting a license with the use of frequency Benešov – Kozmice 89.3 MHz/5 kW to M-Publicity through its judgment No. 11 Ca 46/2003-58 of June 22, 2003. At its 17<sup>th</sup> meeting on September 17, 2003, on the basis of the above-cited canceling judgment, the Council resolved to adopt a new decision on granting the relevant license within license proceedings. To this end, it performed acts aimed at supplementing the license proceedings. The disputes within the M-Publicity company were resolved on October 16, 2003 through an agreement of the parties to the dispute.

On April 7, 2004, within renewed proceedings and following new public hearings, through decision Ref. No. Ru/66/04, the Council again granted a license for the use of the 89.3 MHz/5 kW Benešov-Kozmice to M-Publicity. On the basis of the action lodged by City Multimedia, on October 22, 2004, the Municipal Court in Prague cancelled the second decision on granting a license to M-Publicity through its judgment Ref. No. Ru/66/04, under file No. 10 Ca 114/2004-197. The judgment came into legal force on November 26, 2004. On the basis of the legal force of the quashing judgment, M-Publicity immediately ceased to broadcast. On December 30, 2004, the Council lodged a cassation complaint with the Supreme Administrative Court against the quashing judgment. The cassation complaint also contained an application for granting a suspensory effect to the quashing judgment of the Municipal Court in Prague. On August 5, 2005, the Council received a judgment of the Supreme Administrative Court, file No. 7 As 10/2005- 298, whereby the cassation complaint was dismissed.

On July 29, 2005, the Council resolved to continue the license proceedings with M-Publicity and also with those parties to the license proceedings who successfully lodged an action against granting the relevant license with the use of the Benešov-Kozmice 89.3 MHz/5 kW frequency with the Municipal Court in Prague, i.e. companies City Multimedia, Joe Media and Country Radio. This was based on the fact that no other verdicts of the previous decision of the Council were prejudiced by the aforementioned judgment of the Municipal Court in Prague and, thus, those verdicts remained unchanged and valid. Therefore, the Council could no longer discuss and make a decision on applications of those parties in relation to which the verdicts were not quashed by the court. Thus, the Council acted within the scope within which the case was returned to it for further proceedings by the verdict of the aforementioned judgment.

According to the given criteria, the Council carefully and thoroughly evaluated all applications and came to the conclusion that neither of the applicants had satisfied the evaluation criteria, particularly with respect to their comprehensive internal relationships, to a degree sufficient for granting a license. In this relation, the Council stated that the individual evaluation

criteria had been fulfilled only partially by the individual parties to the license proceedings. However, of the same importance for decision-making by the Council on non-granting a license to any of the applicants was the fact that the projects submitted within the pending license proceedings, with respect to those parties to the proceedings that had lodged a successful action in this case and the party that had been successful in the proceedings, are de facto out-of-date and obsolete, given the time elapsed from their original presentation in the license proceedings announced on May 14, 2002. Furthermore, the Council emphasized that the relevant technical parameter of the license, i.e. the Benešov-Kozmice 89.3 MHz/5 kW frequency, is a frequency that is very valuable from the viewpoint of its importance, as well as from the viewpoint of coverage of territory and the number of listeners covered. Therefore, it is necessary that the winning project be of a very high quality from the viewpoint of the statutory criteria and that the broadcaster on that frequency be as reliable as possible with respect to compliance with the Broadcasting Act and other laws. For the aforementioned reasons, the Council is convinced that, with respect to the relevant license proceedings, there must be all grounds for granting a license and, therefore, the Council believes that it is fully justified to announce new license proceedings in this case.

#### **Announced license proceedings with respect to the set of technical parameters of the Hodonín 91.4 MHz/0.5 kW frequency**

- Pursuant to Section 15 (1) of the Broadcasting Act, the Council announced proceedings on granting a license for terrestrial radio broadcasting and stipulated:
- the deadline for delivery of applications: November 9, 2005, by 4:00 P.M.
  - place of delivery: Council for Radio and Television Broadcasting, Krátká 10, Prague 10, 100 00
  - time frame of broadcasting: 24 hours a day
  - set of technical parameters:  
Hodonín 91.4 MHz/500 W: WGS coordinates 84: (LAT/LON) 48N5109/17E0743, altitude of 171 m, height of the center of the antenna above ground - 20 m, directional radiation diagram, antenna polarization - V
  - territorial scope of broadcasting: the frequency is intended for coverage of Hodonín and close vicinity. According to theoretical calculations, it is estimated that the signal will cover 40 000 inhabitants.

Tab. No. 7:

#### **List of parties to the proceedings with names of programs**

Party to the proceedings	Identification of program name
Českomoravské Rádio	Rádio Blaník Jižní Morava
Radiospol	Rádio Dyje
All Stars Agency	Radio Hodonín
Radio Station Brno	Rádio Big Beat
Rádio Pálava	Rádio H1
Radio Station Brno	Kiss Hády
Juke Box	Radio Čas Hodonín
Star Promotion, s.r.o.	Radio Hey Hodonín
Radio Styl	Radio Styl
Nonstop	Rádio Krokodýl
Radio Station Brno	Rádio Pohoda
Evropa 2	Evropa 2
Country Radio	Country Radio

In accordance with Section 14 (5) of the Broadcasting Act, the Council dismissed the license application of the Country Radio company, as the party to the proceedings failed to remedy shortcomings of the application and submit all the necessary documents and information within the set deadline.

Pursuant to Section 16 of the Broadcasting Act, the Chairman of the Council ordered public hearing of the parties to the license proceedings on granting a license. The public hearing will be held on February 8, 2006. The public hearing will take place at the seat of the Council for Radio and Television Broadcasting at Krátká 10, 100 00 Prague 10. The hearing will be concerned with discussion of questions in accordance with Section 16 (2) and (4) of the Broadcasting Act.

## Proceedings on granting a license for television broadcasting by means of terrestrial transmitters within the DVB-T system

In two announced license proceedings for this type of broadcasting, the Council rejected applicants of applicants who failed to remedy shortcomings in their applications within the set deadline pursuant to Section 14 (5) of the Broadcasting Act. Public hearings of the parties to the license proceedings for broadcasting network B took place on May 17, 18 and 19, 2005 and, for broadcasting network C, on May 31 and June 1 and 2, 2005. Furthermore, in the framework of the license proceedings, the Council ordered oral hearing of individual applicants so that it could discuss the economic and other issues following from the applications with each applicant. The oral hearings took place in September 2005.

The Council gradually takes all steps to objectively evaluate the applications that have been delivered and that meet all the statutory requirements. In evaluation of the applications, the Council proceeds pursuant to the Council's Decision-Making Manual for Granting a License for Terrestrial Radio and Television Broadcasting Pursuant to the Broadcasting Act of April 28, 2005, which allows it to evaluate applications, not only individually, but also with respect to the mutual links and in the overall context. With respect to the number of applications, the scope of assessed criteria and thoroughness of evaluation, it can be stated that the duration of license proceedings is directly proportionate to the complexity and unique nature of the license proceedings.

Tab. No. 8:

### List of parties to the proceedings – broadcasting network B

Party to the proceedings	Identification of program name
CET 21	Nova news
CET 21	Nova sport
CET 21	Nova seriál
CET 21	Nova film
Coqua	Via TV
Czech Infoline	Infoline
Diamant Films	Euro TV
EDCR - Europe Développement Czech Republic	TF 1
Evropa 2 severní Čechy	TE 2
FTV Prima	Prima klub
FTV	TNC - Televize na Cesty
Meteopress	Krimi TV
Milk and Honey	TV News
Minority	5TV
První zpravodajská	Z1
Regionální Televizní Agentura	RTA
Sport 5	Sport 5
Stanice O	Óčko
Step Public Relations	Televize A je to!
Telepace	TV Noe
TP Pohoda	TV Pohoda
TV Lyra	Lyra
United Teleshop	Top TV

Tab. No. 9:

### List of parties to the proceedings – broadcasting network C

Party to the proceedings	Identification of program name
Barrandov Studio	Televize Barrandov
Barrandov Studio	TV Hobby
CET 21	Nova news
CET 21	Nova sport
CET 21	Nova seriál
CET 21	Nova film
Dramedy Productions	DTV5
EDCR - Europe Développement Czech Republic	TF1

Evropa 2 severní Čechy	TE2
Galaxie sport	Sport 2
Genus TV	Genus TV
Live TV	Live TV
Meteopress	Meteo TV
Milk and Honey	Film Channel
Milk and Honey	TV Games
Minority	5TV
Omnicom Praha	TV Zone
Omnicom Praha	TV Real
První zpravodajská	Z1
Stanice O, a.s.	Óčko
Televize Febio	Febio Tv
Televize Paráda	Televize Paráda
Terra TV	Terra TV
The Cherry Orchard	TV Speed
TP Pohoda	TV Aplaus

### **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**

The Council has adopted rules for evaluation of applications within license proceedings as its internal regulation (the Decision-Making Manual for Granting a License for Terrestrial Radio and Television Broadcasting Pursuant to the Broadcasting Act of April 28, 2005) and, in accordance with these rules and criteria, it evaluates the submitted license applications. The full wording of the Decision-Making Manual of the Council is provided in the Annex and, since May 5, 2005, it has been posted on the website of the Council.

The Council is convinced that the procedure pursuant to these rules ensures objectiveness and uniformity of decision-making by the Council; nevertheless, it is neither rigid nor prescriptive. It allows for adequate flexibility and taking account of opinions of the individual members of the Council. As a whole, the procedure governed by these rules ensures sufficient reviewability of the decisions made by the Council within license proceedings.

The specific criteria contained in the internal regulation (the Manual) are in full accord with the law, allow the Council to develop and evaluate the statutory criteria in a uniform manner within the limits of its discretion and, in the future, if possible, should prevent canceling of the Council's decisions by the courts within judicial review of administrative decisions merely for the reason of their unreviewability based on inadequate reasoning.

This attempt yielded the first results at the time of preparation of the Report on the State of Broadcasting and Activities of the Council for 2005: Through judgment of December 22, 2005, Ref. No. 38 Ca 331/2005-75, in the case of Dada Media, as the plaintiff, against the Council, as the Defendant (on an action against decision of the Council of May 17, 2005, Ref. No. Ru/115/05/1797, whereby a license was granted for radio broadcasting of the Info Radio program with the use of a set of technical parameters of the Prague – Vinohrady 89.0 MHz/0.158 kW frequency to the May Loyd company for a fixed term to July 8, 2012), the Municipal Court in Prague dismissed the action, concluding that assessment as to which of the applicants meets best the preconditions for granting a license, falls within discretion of the Council. In this case, the court is to review whether the administrative body has not exceeded the statutory limits of discretion or misused its discretion. The reviewing court is not obliged to replace the discretion of the administrative body by its own discretion. The court review also includes assessment as to whether discretion is a logical result of proper evaluation of matters of fact.

On the basis of the set individual criteria, the Council transparently evaluates applications in relation to these facts. With respect to these facts, it evaluates the extent to which the individual statutory requirements have been met by the individual applications. According to this extent, it then mutually compares the applications and selects the one that is the best on the basis of all the evaluated criteria corresponding to the facts stipulated in Section 17 of the Broadcasting Act.

This evaluation procedure, the course of which can be recorded, constitutes also a precondition for statement of adequately detailed reasons for all (including rejecting) decisions on granting a license, indicating the specific considerations and evaluated facts decisive for decision-making by the Council in granting the license and dismissal of other applications. In the actual

process of evaluation of applications, for each fact important for the decision-making, the Council carries out overall assessment on the basis of individual criteria. The Council always concludes evaluation of the criteria by individual assessment, including particularly verbal comments and scoring on a scale “unsatisfactory – partly satisfactory – satisfactory”, which is performed individually by the members of the Council.

Summary of individual assessments describes the extent and quality of fulfillment of the specific statutory requirements (Section 17 of the Broadcasting Act) by the individual applicants. This assessment is a synthesis of the results and findings obtained to date by the Council with respect to the submitted applications, the contents of these applications and the applicants, as well as conformity of these results and findings with facts important for decision-making by the Council (Section 17 of the Broadcasting Act) as stipulated by the law. The set criteria constitute the basic parameters for evaluation of the submitted applications. On the basis of these criteria, the members of the Council vote on selection of a set of evaluation criteria for the individual license proceedings, based on the nature of the proceedings, specific local conditions and other circumstances.

Reviewability of the decisions of the Council is thus objectively ensured. The aforementioned Manual is a tool for the Council, which provides for simplification and increased transparency of the background for the actual decisions (final voting) and ultimately also simplifies judicial review, as the detailed evaluation criteria lead to careful and detailed reasoning of the decisions, which are thus perfectly reviewable. However, by no means does the adoption of the above-described criteria limit the Council's discretion in decision-making on granting a license. An applicant for a license, who is positively evaluated on the basis of a majority of criteria, has no legal title on the basis of which he could claim a license. There is no legal entitlement to a license under the law and evaluation as to which facts will be considered more important or less important for granting a license is fully within the Council's discretion.

In this relation, it must be noted that fulfillment of some of the statutory criteria can be enforced by imposing penalties stipulated by the Broadcasting Act (e.g. ratio of European works), while other, very important criteria, cannot be thus enforced (such as economical, organizational and technical background of the applicant); therefore, when assessing the applications, the Council must take greater account of the latter criteria, where, by definition, the most important criterion is the contribution of the program structure proposed by the applicant for a license to the diversity of the current offer of programs in radio or television broadcasting in the territory that should be covered by radio or television broadcasting.

## **Proceedings on granting a license for radio and television broadcasting by means of satellites and cable systems**

### **Proceedings on granting a license for television broadcasting by means of satellites**

Table No. 10

#### **List of parties to the proceedings**

Party to the proceedings	Council decision
1. European television	license granted on March 15, 2005
Československá filmová společnost	license granted on March 30, 2005
HBO Česká republika	license granted on September 20, 2005
Help film	license granted on September 20, 2005
Help film	license granted on October 18, 2005
Help film	license granted on December 20, 2005
Minimax Media	license granted on March 30, 2005
Telepace	license granted on January 10, 2006

Party to the proceedings	Council decision
INTV	proceedings discontinued on February 22, 2005

## Proceedings on granting a license for television broadcasting by means of cable systems

Table No. 11

### List of parties to the proceedings

Party to the proceedings	Council decision
AV- park	license granted on January 18, 2005
Broad road	license granted on March 30, 2005
Invest tel	license granted on June 28, 2005
Kadlec Aleš	license granted on October 18, 2005
Telto	license granted on March 15, 2005

## Proceedings on granting a license for television broadcasting by means of satellites and cable systems

Tab. No. 12:

### List of parties to the proceedings

Party to the proceedings	Council decision
Call tv	license granted on June 14, 2005

## Proceedings on granting a short-term license

Tab. No. 13:

### List of parties to the proceedings

Party to the proceedings	Council decision
Omnicom Praha	license granted on August 23, 2005
T – Mobile Czech Republic	license granted on October 18, 2005
United Teleshop	license granted on November 8, 2005
United Teleshop	license granted on December 12, 2005

Party to the proceedings	Council decision
The town of Vrbno pod Pradědem	application dismissed on December 20, 2005

## Aspects of participation of cities and municipalities in proceedings on granting a license and registration

After amendment to the Broadcasting Act which entered into effect on June 2, 2004, municipalities and cities may become parties to the license proceedings or proceedings on registration, as the cited law does not expressly require that the broadcaster be a legal person registered in the Commercial Register (at variance with the previous regulation). A legal person may obtain a license or registration if it complies with the conditions for operating a business in the Czech Republic in accordance with the Commercial Code.

The Commercial Code includes amongst business entities also persons that operate a business on the basis of authorization other than a trade license pursuant to the special regulations (Section 2 (2) (c) of the Commercial Code). Pursuant to Section 2 (1) of Act No. 128/2000 Coll., on municipalities (the municipal order), a municipality is a public corporation with its own assets. A municipality acts in legal relationships on its own behalf and bears the responsibility following from these relationships. Pursuant to Section 5 (1) of the municipal order, a municipality is independently managed by the municipal board; other bodies of a municipality include the municipal council, the mayor, the municipal authority and special bodies of the municipality. A city is independently managed by the city board; other bodies of a city include the city council, the mayor, the municipal authority and special bodies of the city.

Thus, it can be concluded that a city (municipality) may obtain a license or registration in spite of the fact that, pursuant to the first sentence of Section 14 (1) (a) of Act No. 231/2001 Coll., a license application must contain the following basic data: for a legal person, the business name (which is defined in the Commercial Code as the name under which the business entity is registered in the Commercial Register), registered office, legal form, identification number (if assigned), and also the name, surname and birth identification number of a person authorized to act on its behalf. (Pursuant to Section 27 (2), an application for registration must include the information listed in Section 14 (1), subject to certain derogations).

## **F. INFORMATION ON CHANGES IN LICENSE CONDITIONS FOR LICENSED BROADCASTERS**

### **[Section 6 (1) (f) of the Broadcasting Act]**

#### **Changes in certain parameters and changes in the license conditions (Section 21 of the Broadcasting Act)**

The reasons for refusing the consent to a change are specified in the second sentence of Section 21 (3) of Act No. 231/2001 Coll.: 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) (c). However, Section 6 (1) (c) 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. The relevant criteria are stipulated particularly in Section 17 of Act No. 231/2001 Coll. or they may correspond to other facts that would result in refusal of the license. Thus, the reasons for rejecting the consent to a change in the license should be interpreted with respect to the specificities and differences between license proceedings and proceedings on amendment to a license and in the context of other provisions of the Broadcasting Act. The cases in which the Council refused its consent to amending a license in 2005 are related to changes in the license conditions that would result in non-granting of the license, particularly with respect to the criterion referred to in Section 17 (1) (c) – 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. The consent was not granted to such changes that would lead to a change in the identity of broadcasting. The Council also did not grant its consent to a change in the name of a program.

#### **Changes in license conditions of radio programs**

If a licensed radio broadcaster intends to make corrections or changes in the broadcast program, the Broadcasting Act requires that he apply to the Council for its prior consent to such changes. Pursuant to Section 21 (3) of the Broadcasting Act, the Council is obliged to make a decision on the changes within 60 days of delivery of the application of the broadcaster. The Council may refuse its consent only in cases where the required change would result in non-granting of a license or in a change in the basic specification of the given program. The Council may interrupt administrative proceedings on a change if it is necessary to remedy shortcomings in the application within the set deadline or if proceedings on a preliminary ruling have been commenced.

The Council received a total of 23 applications for a change in the license conditions; in 18 cases, it granted consent to the change, in four cases, it refused such consent and, in one case, the administrative proceedings were discontinued at request of the broadcaster. A vast majority of requested changes were concerned with the structure or name of the broadcast program. The following broadcasters applied for amendment to the license:

##### **BBC Radiocom (Praha) / BBC**

broadcasting of the program in English instead of Czech - administrative proceedings were discontinued at request of the broadcaster

##### **Delta Media Broadcasting / Kiss Delta**

change in the broadcasting scheme – the Council issued its consent

##### **North Music / North Music**

change in the broadcasting scheme – the Council refused consent due to potential breach of Section 21 (3) – change in the basic program specification

##### **Radio Contact Liberec / Radio Contact Liberec**

decrease in the ratio of spoken word including news programs – the Council issued its consent

**Radio Life / Rádio Life**

change in the broadcasting scheme – the Council refused consent due to potential breach of Section 21 (3) of the Act – change in the basic program specification

**Radio Morava / Kiss Morava**

change in the broadcasting scheme – the Council issued its consent

**Radio Proglas / Radio Proglas**

změna programové skladby licence Ru/285/00, Ru/232/03 a Ru/148/02  
– Rada vydala souhlas

**Radio Proglas / Radio Proglas**

change in the program structure due to cessation of retransmission of the BBC program for licenses Ru/285/00, Ru/232/03 and Ru/148/02 – the Council issued its consent

**Radio ProTon / Kiss Publikum**

change in the broadcasting scheme – the Council issued its consent

**Radio Publikum / Kiss Publikum**

change in the broadcasting scheme – the Council issued its consent

**Radio Station Brno / Kiss Hády**

change in the broadcasting scheme – the Council issued its consent

**Rádio Student / Radio Student**

change in the broadcasting scheme – the Council refused consent due to potential breach of Section 21 (3) of the Act – change in the basic program specification

**RNDr. Pavel Foretník / Radio Haná**

change in the license – broadcasting of a separate program – local information and advertising – on the Prostějov and Přerov frequencies – the Council issued its consent

**RKR / Classic FM**

change in the program structure – the Council issued its consent

**Changes in license conditions of television broadcasting**

Pursuant to Section 21 (1) (d) of the Broadcasting Act, a licensed television broadcaster is obliged to apply to the Council for Radio and Television Broadcasting for a written consent to a change in the facts stated in the license application consisting in amendment to the license conditions. The Council is obliged to make a decision on the change within 60 days of delivery of the application of the broadcaster. If the Council fails to make a decision within this deadline, it holds that it approved the change.

The survey of changes in the license conditions includes all proceedings on changes in the license conditions initiated and approved during the relevant period.

**Proceedings on change in the license conditions for television broadcasting by means of terrestrial transmitters**

The Council discussed three applications for a change in the license conditions, which it approved:

- FTV Prima: amendment to the wording of license condition No. 34 in relation to Regionální televize DAKR and ZAK TV;
- RT Dakr: change in the connection times for regional broadcasting of FTV Prima;
- ZAK TV: change in the connection times for regional broadcasting of FTV Prima

### **Proceedings on change in the license conditions for television broadcasting by means of cable systems**

The Council discussed six applications for a change in the license conditions, which it approved:

- Keli: change in the program structure of Infokanál Keli;
- Noel: extension of the program offer by Infokanál Hodonín;
- Star–nova: extension of the program offer by Televize Duha – Nová Role;
- United Teleshop: change in the time frame of broadcasting of ToP TV;
- Meteopress: change in the program structure (inclusion of part of Austrian program TW1 Live, the Alps panorama); extension of broadcasting via the Astra satellite with coverage of the Czech Republic and the Slovak Republic;
- KabelSat: extension of the program offer by Info-Tučapy and Info-Heršpice

### **Proceedings on change in the license conditions for television broadcasting by means of cable systems and satellite**

The Council discussed one application for a change in the license conditions, to which it did not issue its consent, as the change would result in non-granting a license on the basis of a public hearing (Section 21 (3) of the Broadcasting Act):

- Galaxie Sport: extension of the program offer by new program Galaxie Sport

### **Proceedings on a change in the license conditions for operation of retransmission by means of terrestrial transmitters (experimental terrestrial digital broadcasting) – DVB-T**

The Council discussed two applications which it approved:

- Czech Digital Group: extension of the program offer by inclusion of program ČT 24; extension of the program offer by inclusion of Top TV

### **Proceedings on change in the license conditions for television retransmission by means of the MMDS (2.1-2.3 GHz) system**

The Council discussed one application which it approved:

- Local TV Plus: extension of the program offer by retransmission of the TA 3 television program

**G. INFORMATION ON PROMOTION OF EUROPEAN WORKS AND EUROPEAN INDEPENDENT WORKS IN TELEVISION BROADCASTING, ON COMPLIANCE WITH THE RATIO OF EUROPEAN WORKS AND EUROPEAN INDEPENDENT WORKS, AND ON THE REASONS FOR NON-COMPLIANCE, IF APPROPRIATE  
[Section 6 (1) (b) 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.

Another 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**

Nationwide television broadcasters have repeatedly processed the required data. On the basis of the supplied data, it can be concluded that all the required indicators are being fulfilled – see the table.

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. No shortcomings were found in their documents. The figures correspond to the supplied documents and ad hoc control of the classified works also showed no shortcomings.

Statistics of the ratio of European works and European independent and contemporary works in broadcasting during the period from January to December 2005 (in hours and percent)

Table No. 1

Television station	Nova		Prima		ČT 1		ČT 2	
	h:min:s	%	h:min:s	%	h:min:s	%	h:min:s	%
total	6 545	100	5 519.5	100	6 387.9	100	5 453.6	100
European works	3 918	59.9	3 753.4	68	5 478.0	85.8	4 920.0	90.2
Non-European works	2 627	40.1	1766.1	32	909.9	14.2	532.6	9.8

Table No. 2

Television station	Nova		Prima		ČT 1		ČT 2	
	h:min:s	%	h:min:s	%	h:min:s	%	h:min:s	%
European works	3 918	59.9	3 753.4	68	5 478.0	85.8	4 921.0	90.2
Independent European works	2 081	31.8	1 646.2	29.8	1265.8	19.8	996.4	18.3
Contemporary independent works	636.8	30.6	1646.2	100	677.2	53.5	560.1	56.2

For 2005, FTV Premiéra reported 100 % of contemporary independent European works. It considers the TV Produkce company to be an independent producer. On the basis of the Broadcasting Act, an independent producer is a natural or legal person who is not a television broadcaster or whose supplies of works for a single television broadcaster do not exceed 90% of its overall production over a period of three years. In the accompanying letter, the broadcaster stated that this duty was fulfilled by the producer.

Information concerning compliance with the ratio of European works for the 2005 was also requested from operators who broadcast the original program via cable systems. The data supplied by the operators were of variable quality and, thus, control – as carried out for nationwide televisions – could be performed only partially.

### **Československá filmová společnost s.r.o. / CS Film – film channel**

The operator sent a list of all works which it broadcast in 2005. This included a total of 374 works, all of European production, i.e. 100 %. This 100 % ratio of European works corresponds to the program structure of the operator whose license conditions provide for broadcasting of mostly Czech and Slovak movies. The operator quantified the share of European independent works also by their number – 16. However, it is not possible to derive from the aforementioned data the percentage of European independent works, as the above movies were showed several times. The operator also did not provide information on contemporary European independent works.

### **Česká programová společnost s.r.o. / Spektrum – documentary channel**

The basic program structure of this television channel consists of documentary programs of various types – from natural science and science in general, to travel and history. The broadcaster provided data indicating the ratio of European works.

total broadcasting time	5427.5	= 100 %
European works	3017	= 55.5 %

### **HBO Česká republika s.r.o. / HBO – film channel**

This is a film channel where a substantial part of the program structure consists in broadcasting of movies, supplemented by recordings of concerts, film profiles and series.

The ratio of European in 2005 equaled 19.82 %.

total broadcasting time	6256	= 100 %
European works	1628	= 19.82 %

This company also operates other film channels, which also broadcast to various parts of Europe.

HBO Česká republika s.r.o. / HBO 2		
total broadcasting time	6256	= 100 %
European works	1296	= 20.72 %

HBO Česká republika s.r.o. / Cinemax		
total broadcasting time	6947	= 100 %
European works	1762	= 25.36 %

HBO Česká republika s.r.o. / HBO broadcasting for Croatia and Slovenia		
total broadcasting time	4535	= 100 %
European works	731	= 16.11 %

HBO Česká republika s.r.o. / HBO broadcasting for Slovakia		
total broadcasting time	4535	= 100 %
European works	731	= 16.11 %

HBO PP, s.r.o. / HBO film channel for Poland		
total broadcasting time	8212.5	= 100 %
European works	2074	= 25.25 %

HBO PP, s.r.o. / HBO 2 film channel for Poland		
total broadcasting time	8212.5	= 100 %
European works	2163	= 26.33 %

In the accompanying letter, the broadcaster states that the company had not been able to collect data concerning the first published work and information concerning the producers of the programs. The broadcaster justifies this inability by the fact that it purchases programs from distributors rather than directly from the producers. Information on the producer of the first published program is not stated in contracts with distributors. This information is often not available even to distributors.

The broadcaster explains his non-compliance with the European quotas (majority ratio of European works) as follows:

European works are generally not easily accessible and, therefore, it is currently practically impossible to achieve the ratio of European works required by law.

The offer of films is adapted to the viewers' demands, as the relevant paid programs are concerned with specific topics (films). Another important factor consists in the fact that the price of European films is higher than the price of American works, where the maintaining of the price of programs at a reasonable level is one of the essential preconditions for existence of paid television programs.

This is also related to the generally acknowledged lack of good and commercially successful European films, where the contents of paid programs must generally respect these preconditions, so that a paid television program can be maintained on the market.

#### **Help film s.r.o. / Film box – film channel**

This is a film channel whose program structure includes films and special film journals. However, the broadcaster commenced broadcasting only in the last quarter of 2005. The law imposes the duty to provide information for a calendar year. Nevertheless, in spite of this fact, the operator sent information, on the basis of which it is possible to calculate the ratio of broadcast European works.

total broadcasting time	793.26	= 100 %	
European works	476.53		= 60.07 %

#### **Minimax Media, s.r.o. / Minimax – special children's channel**

The company sent aggregate data in percent, without any detailed survey of individual works, including identification of producers and independent producers, which it justifies by the fact that such a detailed survey, according to the structured form supplied by the Council, would require more time for drawing up.

European works	= 70 %
Independent European works	= 70 %
Contemporary independent European works	= 45 %

These figures are identical for all language versions – for Slovakia, Hungary and Romania.

#### **Stanice O, a.s. /O (Óčko) – music channel**

The operator provided a structure of broadcasting, which mostly consists in broadcasting of clips. The clips are accompanied by reports, reminiscence programs and also educational programs. The broadcaster stated that 100 % of these programs are of European production. He provided no further classification, stating only that, in addition to the programs, of 100 % clips, 60 % are of European origin, 35 % from the U.S. and 5 % of Asian and other production.

#### **Other promotion of European independent and contemporary works**

The broadcasters were also requested to provide information concerning promotion of European independent and contemporary works other than through the actual broadcasting of programs. A response to this request was provided only by Česká filmová společnost and Minimax Media, where both companies stated that they had not provided any other support for European film production.

Of the nationwide television broadcasters, a statement was provided only by the Czech Television and Prima.

Czech Television stated that, in 2005, it participated in the following European co-production projects:

- Mozart 24 hours – a co-production project in the framework of the EBU
- European health – a co-production project in the framework of the EBU, promoted by the European Commission
- Sluneční stát – distribution film – co-production, Čestmír Kopecký – První veřejnoprávní (CT) and Titanic (SR)

The Czech Television includes these projects amongst other support. However, it is disputable whether such other support is involved when all the above works will be included in the program of the Czech Television in the future (and, therefore, included in the European quotas) – as stated by the Czech Television itself in the accompanying notice.

Prima television states that it supports European independent and contemporary works also by other means than by broadcasting of European works. These means include financial support for production, as well as media support, etc. However, it simultaneously notes that, for 2005, it fully complied with the statutory duty to broadcast European, European independent and contemporary works and that the law does not stipulate a duty to provide the ratio in the program budget. Consequently, the broadcaster did not draw up data on the ratio of European works in the program budget for 2005.

A similar response was provided by Nova, which also referred to detailed tables concerning the quotas for European works and European independent and contemporary works. It stated that it complied with the reporting duty pursuant to Section 42 of the Broadcasting Act for 2005 and, therefore, it would not specify the amount from the program budget allocated to support for European works.

## **H. INFORMATION ON USE OF THE FREQUENCY RANGE INTENDED FOR RADIO AND TELEVISION BROADCASTING**

### **[Section 6 (1) (h) of the Broadcasting Act]**

#### **Description of the frequency range**

##### **Analogue terrestrial radio broadcasting**

Analogue terrestrial radio broadcasting is transmitted in the following bands: FM 87.5 to 108 MHz, AM 526.5 to 1606.5 kHz, LW 148.5 to 283.5 kHz and AM 3.95 to 26.1 MHz. This sphere of broadcasting is ensured in the Czech Republic by a public service broadcaster, the Czech Radio (a statutory broadcaster), by means of its nationwide and regional stations and by licensed nationwide or local broadcasters. The Czech Radio broadcasts its programs as a means of service to the public over the entire territory of the Czech Republic in the FM band and also in the AM band. Licensed broadcasters mostly broadcast in the FM band; only one broadcaster also broadcasts on a single AM (medium waves) frequency. Broadcasting in the AM band (medium waves) already decreased in the previous year and only seven transmitters for the AM band (medium waves) are currently in operation. Broadcasting for foreign countries is operated in the AM band (short waves).

##### **Analogue terrestrial television broadcasting**

Analogue terrestrial television broadcasting is operated in the 1st television band (channels R1 and R2 on frequencies 48.5 to 66 MHz), in the 3rd television band (channels R6 to R12 on frequencies 174 to 230 MHz), and in the 4th and 5th television band (channels 21 to 69 on frequencies 470 to 862 MHz).

##### **T-DAB digital terrestrial radio broadcasting**

Several sets (layers) of frequencies have been allocated to the Czech Republic on the basis of international coordination for broadcasting of the T-DAB terrestrial radio. Block 12 C (frequency 227.360 MHz) allowing for nationwide coverage of Bohemia and block 229.072 D (frequency 229.072 MHz) enabling coverage of the entire territory of Moravia are available within the 3rd television band. T-DAB broadcasting is also possible in a higher frequency band which is designated as the L band. Here, the Czech Republic has available one nationwide LC block (frequency 1456.384 MHz) and also a set of 13 blocks covering the individual regions and 13 blocks intended primarily for municipal transmitters.

##### **DRM digital terrestrial radio broadcasting**

The DRM digital radio uses the same frequency bands as the classic analogue terrestrial radio broadcasting.

##### **Frequency bands above 10 GHz**

Higher frequency bands can also be utilized for radio and television broadcasting, namely 11.7 – 12.5 GHz and 40.5 – 42.5 (43.5) GHz. No fundamental changes occurred in this area in 2005.

There is still no interest in establishment of systems allowing for digital broadcasting in the 40.5 – 42.5 (43.5) GHz band.

## DVB-T terrestrial digital television broadcasting

Three networks have been established to date for broadcasting within the DVB-T system, using frequencies from the IVth and Vth television band.

### Use of the frequency range

Use of the frequency spectrum is regulated by several laws. These include Act No. 231/2001 Coll., on operation of radio and television broadcasting (hereinafter the "Broadcasting Act"), Act No. 484/1991 Coll., on the Czech Radio, Act No. 483/1991 Coll., on the Czech Television, and Act No. 127/2005 Coll., on electronic communications.

Requests for coordination of frequencies are submitted by the Council to the Czech Telecommunication Office, which provides it with a frequency for use after full coordination, i.e. also coordination with the means of air navigation service. A total of 64 requests for coordination of frequencies in the FM band were sent to the CTO in 2005. 48 requests were concerned with coordination of new frequencies, while other cases involved changes in the parameters of frequencies (a change in the radiated power or a change in location). During the year, the CTO provided us with 26 successfully coordinated frequencies; in seven cases coordination was unsuccessful.

A list of frequencies whose coordination is prolonged is given in the following table (state of affairs as of December 31, 2005).

Name	Frequency	ERP max. [kW]	Date of sending
BRNO-HÁDY	107.50	10	April 6, 2005
LIBEREC-VRATISLAVICE	107.80	0.1	June 8, 2005
PRAGUE-STRAHOV *	103.70	5	November 1, 2000
TŘEBÍČ-CITY	90.10	1	November 30, 2004
TŘINEC-JAVOROV?	107.80	0.5	November 30, 2004

\* frequencies with uncompleted coordination with means of air navigation services

In the framework of assessment and allocation of frequencies, the Council usually bases its considerations, in addition to legal rules, on the relevant decisive facts, specific parameters and criteria of the given case, as well as on conclusions reached within administrative discretion. Amongst other things, it also evaluates the relation to the current coverage of territory by the applicant's signal. On the basis of evaluation of these criteria, it decides whether the frequency will be allocated to the applicant for supplementary coverage of the territory or whether license proceedings will be announced for the frequency. When allocating supplementary frequencies, the Council complies with statutory procedural deadlines.

When allocating frequencies for analogue radio broadcasting, the Council encounters the issue of economic use of the frequency range. This problem became topical particularly with legal force of the Act on Electronic Communications which increases the requirement for nationwide coverage by statutory broadcasters from 70 % to a minimum of 95 % of the population of the Czech Republic for three programs of the Czech Radio broadcast in the FM band. Consequently, the Council requested that the Czech Radio review and optimize all frequencies in the FM band which are allocated to it for broadcasting of its three nationwide programs. With the current state of use of the frequency range, it is not possible to achieve the aforementioned coverage by mere allocation of additional supplementary frequencies. In December 2005, the Council asked the Technical and Testing Institute of Telecommunications and Post in Prague (Testcom) for its opinion on the problem of economic use of the frequency range for FM broadcasting. In its opinion, the statutory regulation of nationwide coverage by statutory broadcasters, which is set at 95 % of the population of the Czech Republic, is senseless both from the technical viewpoint and from the viewpoint of natural laws. The frequency range in the FM band is already practically exhausted and this state of affairs cannot be changed by any administrative (or statutory) measure. In the future, nationwide coverage may be ensured by including the programs of the Czech Radio within the DVB-T public-service multiplex, whose coverage is stipulated by law at 95 %. This is technically feasible, although costly. In addition, all programs of the Czech Radio have 100% coverage ensured by satellite broadcasting. The RadioLab computing system is used

to determine coverage, taking into account the specific features of transmission of the radio signal, including the terrain, morphology, mutual effects of individual frequencies, interference and interaction. Models of transmission based on recommendations of the International Telecommunication Union (ITU) are implemented in the system. According to recommendation of the ITU, the minimum intensity of the field for reception of signal with stereo parameters should be 54 dBmV/m for non built-up premises.

Thus, the Council bases its calculation of coverage on recommendations of the International Telecommunication Union and on technical standards; however, there is no legislative framework providing for methodology of the calculation (at least in the form of an implementing regulation). Indeed, a generally binding legal regulation would be very desirable, as, not only the Broadcasting Act, Act on the Czech Television and Act on the Czech Radio define nationwide broadcasting on the basis of a certain percentage of inhabitants who are able to receive the broadcasting (70 %, 95 %), but this definition also serves as a basis for duties of individual broadcasters and operators (e.g. operators of retransmission in cable systems are obliged to include in the minimum program offer terrestrial and non-encoded broadcasting of all nationwide channels of statutory broadcasters and all nationwide licensed broadcasters), where the Council is authorized to impose penalties for their non-fulfillment. Calculation of coverage is very important particularly with respect to ensuring plurality in nationwide radio and television broadcasting; in this area, the Council also requires information on coverage of the population and compliance with the definition of nationwide broadcasting, for the purposes of checking compliance with the prohibition of mergers of nationwide broadcasters and with the prohibition of holding more than one license for analogue nationwide broadcasting. That means that simultaneous compliance with several laws, control of plurality in nationwide radio and television broadcasting and, ultimately, also detection of potential administrative torts (misdemeanors pursuant to the Broadcasting Act) is based on a calculation lacking a legal framework and resulting in a certain degree of probability. This degree of probability is admittedly an essential characteristic of such a calculation; nevertheless, stipulation of a methodology of calculation in the law would benefit all parties to legal relations in the area of broadcasting, as they would thus have greater legal certainty.

The state of affairs in relation to the frequency range intended for analogue terrestrial television broadcasting is also not favorable. Two public service programs and two programs of licensed broadcasters are transmitted on a nationwide scale. The territory of the Czech Republic includes such a vast number of television transmitters and converters that it can be stated that all available television channels are currently occupied. Furthermore, the situation is complicated by the fact that it is necessary to plan channels for digital broadcasting within the same frequency band. Consequently, the requirements for other channels for analogue television broadcasting cannot be satisfied.

Terrestrial radio and television digital broadcasting in the Czech Republic has been under preparation for several years. This includes both technical preparation (selection and coordination of frequencies and locations of transmitters) and legislative preparation (the process of licensing digital broadcasting and specification of competence of regulatory bodies). The course of technical preparation has been balanced and thus, several coordinated networks of transmitters for terrestrial digital radio broadcasting T-DAB and three networks of terrestrial digital transmitters DVB-T were available in 2005. The situation in radio and television broadcasting will substantially improve with introduction of proper nationwide digital broadcasting using all allocated technical means.

### **DVB-T terrestrial digital television**

Three broadcasters continued experimental DVB-T broadcasting in 2005 in networks designated by letters A, B and C in the territory of Prague and the Central-Bohemian Region. The Radiokomunikace company broadcast on the 25th channel, the Czech Digital Group on the 46th channel and the Czech Telecom on the 64th channel. On October 21, 2005 Radiokomunikace commenced ordinary DVB-T broadcasting of 4 television (ČT 1, ČT 2, ČT 24, Nova) and 5 radio (ČRo 2, ČRo 3, ČRo Leonardo, ČRo D-dur and Rádio Česko) programs in multiplex

A. The signal can be received in Prague and surroundings. In late 2005, Czech Digital Group applied for prolonging of the experiment and, at its 22nd meeting in 2005, the Council prolonged its license for experimental digital broadcasting to December 31, 2006 at the latest.

Given the experimental nature of broadcasting, there were changes in technical quality of broadcasting and the data flow. Radiokomunikace broadcast a total of six television programs (ČT 1, ČT 2, ČT 24, Nova, Prima and Óčko) and seven radio programs (ČRo 1, ČRo 2, ČRo 3, ČRo Leonardo, ČRo D-Dur, Rádio Česko and Frekvence 1). The Czech Digital Group broadcast a total of six television programs (ČT 1, ČT 2, Nova, Prima, TOP TV and Óčko) and six radio programs (ČRo 1, ČRo 2, Radio Proglas, Evropa 2, Expres radio and Classic FM). The Czech Telecom broadcast a total of three television programs (ČT 1, ČT 2 and Óčko) and four radio programs (ČRo 1, ČRo 2, ČRo 3 and Rádio Blaník). The broadcasting also included teletext and an electronic program guide. In the territory of Brno, experimental broadcasting took place on the 25th channel – Czech Telecom – and on the 40th channel – Radiokomunikace.

The results of experimental broadcasting of all three broadcasters to date could be summarized as follows:

- successful tests of coverage of major urban agglomerations (Prague, Brno) took place
- long-term operation of single-frequency networks (SFN) was subject to testing and the tests confirmed the theoretical calculations of the quality of reception using an external fixed antenna
- the practical capacity of the transmission channel, which varies according to the type of modulation, was verified
- the composition of the digital multiplex with the use of both classical and statistical multiplexing was verified
- the optimum rate of the data flow was verified
- various types of digital signal receivers, i.e. the set-top-boxes, were verified

The Council also continued the announced license proceedings for two terrestrial digital broadcasting networks, designated as B and C.

### **T-DAB digital radio**

Two experiments took place in November 2005, which were concerned with transmission of several radio programs both in the IIIrd television band (blocks 12 C and 12 D) and in the L band (block LC). This broadcasting took place at the time when the World DAB Forum, an international association responsible for coordination and implementation the DAB technology throughout the world, held its 11th annual meeting in Prague. The experimental broadcasting confirmed the concerns related to interference with the 12th television channel which is transmitted from the Buková hora transmitter.

### **DRM digital radio**

No interest in broadcasting in the DRM system was expressed in 2005. Short-term experimental broadcasting within the DVB-H standard on the 42nd television channel in Brno took place at the occasion of the Invex international fair. Considerations related to the capacity of the frequency range in digital broadcasting

### **DVB-T system**

The Czech Republic has requested six multiplexes for this system. The results of allocation should be known at the earliest in the middle of 2006. In case of a favorable outcome, a data flow of approx. 6 x 22 Mbit/s would be available. 30 television programs of standard quality and 36 stereo radio programs could be placed in this set on the basis of the current MPEG 2 coding and statistical multiplexing. In case of reduction of the quality requirements, these numbers could be increased to a certain degree. In the future, in case of a shift to an improved coding system MPEG 4 AVC, the aforementioned numbers could be approximately doubled. However, it must be taken into account that certain television programs might be broadcast within a high-definition system (HDTV), where a single program would use the space of three to four standard programs.

## **T-DAB system**

According to the results of international conferences held in Wiesbaden and Maastricht, the Czech Republic has been allocated blocks 12C (Bohemia) and 12D (Moravia and Silesia) in the third television band, allowing for nationwide coverage by six radio programs with standard quality. In case of higher compression, this number could be increased up to ten. However, commencement of operation within these blocks is conditional upon termination of analogue television broadcasting.

In the L band (approx. 1.5 GHz), the Czech Republic has available the LC nationwide block, 13 regional blocks and 13 blocks for municipal broadcasting. Each of the above blocks has a specified capacity of six (or, with higher compression, up to ten) radio programs. However, there will be considerably lower interest in broadcasting in this block, as the individual transmitters cover only a small territory and an adequate effect could be obtained only with the use of a greater number of transmission sites.

## **DRM system**

This is digital radio broadcasting in the band of long, medium and short waves. Its introduction would not increase the capacity of the frequency range, as a single DRM program uses the same channel as the current analogue broadcasting. The only benefit would lie in substantial improvement of the quality of broadcasting and limitation of interference. A poll undertaken by the CTO in 2004 indicates that there is no interest in this type of broadcasting in the Czech Republic. The advantages of DRM (digital radio mondiale) are substantial particularly within short waves, which are used by the Czech Radio for broadcasting abroad; however, its introduction would require full replacement of technical equipment of transmitters.

## **ALLOCATION OF FREQUENCY BANDS IN THE CZECH REPUBLIC**

A notice of plan of allocation of frequency bands (the national frequency table) was published in Volume 229 of the Collection of Laws of the Czech Republic, 2004. The frequency table was separately published in the Telecommunication Journal, Volume 11/2004, in the form of an attached CD-ROM. It is also available on the CTO website at

<http://www.ctu.cz/main.php?pageid=67>, where the actual document is at  
[http://www.ctu.cz/1/download/plan-prideleni-kmitoctovych-pasem\\_1114099610.pdf](http://www.ctu.cz/1/download/plan-prideleni-kmitoctovych-pasem_1114099610.pdf).

## I. DRAFT MEASURES REFLECTING NEW TECHNOLOGIES IN THE AREA OF RADIO AND TELEVISION BROADCASTING [Section 6 (1) (i) of the Broadcasting Act]

In the future, it will be very important to carefully develop a plan of cessation of analogue broadcasting which should ensure minimization of cases where some other existing programs are temporarily not available in a certain area. This plan should be specified, in general terms, in the concept of transfer to digital broadcasting which will be drawn up by the Ministries of Informatics and Culture after approval of amendment to the Broadcasting Act. Detailed elaboration of this plan will be conditional upon the result of the Regional Frequency Conference and will be ensured by the Czech Telecommunication Office. In this relation, very difficult problems will be encountered in areas supplied by the signal from television converters, whose number equals several hundred.

An increased interest in digital radio broadcasting in the T-DAB system was recorded in 2005. Given the fact that the Czech Republic has internationally coordinated bands within the 12<sup>th</sup> television channel for this type of broadcasting, it must be carefully considered whether and when it would be suitable to commence regular operations in this band. First, it is necessary to map the specific interest of the broadcasters and, second, it must be considered as to how the potential commencement of operation could be incorporated in the process of cessation of analogue broadcasting, including the continued operation of two television transmitters on the 12<sup>th</sup> channel. Experimental T-DAB broadcasting demonstrated interference of television broadcasting on the 12<sup>th</sup> channel.

The Council has recently encountered increasing problems resulting from technical progress. These problems are connected with the use of new technologies, such as:

- **Triple play** – designation of three services (high-speed internet, television and telephone) within the use of a single internet connection,
- **IPTV** – a manner of transmission of television broadcasting based on an internet protocol via high-speed internet connection,
- **DVB-C** – specification of digital broadcasting intended for cable networks,
- **DVB-H** – specification of terrestrial digital broadcasting intended for use in portable equipment,
- **UMTS** – one of technologies in the 3rd generation mobile networks.

Given the rapid development of the aforementioned technologies, this area is not adequately regulated by legislation and, therefore, it will be necessary to suitably reflect the existence of these technologies, as they are already commercially used. Several new technologies were developed in 2005 – operators of cable television introduced experimental broadcasting in the DVB-C standard, broadcasting in the DVB-H standard for mobile portable equipment was tested in practice during the Invex fair, telecommunication operators introduced a new way of monitoring television broadcasting via high-speed internet connection and one mobile operator introduced another way of watching television through services of the 3rd generation network. However, it remains questionable whether these new technologies should be covered within the monitoring of radio and television broadcasting. These technologies will be undoubtedly extended and used to a greater degree. Given the nature of the individual technologies, particularly those that use fixed cables and are aimed only at selected localities, the costs of ensuring the necessary monitoring of broadcasting will substantially increase. During the next 5 to 10 years, it is likely that the range of offered services and possibilities will be so wide that effective monitoring of these technologies without a comprehensive background and with expenditure of reasonable funds would not correspond to the achieved results, similar to regulation of the internet.

Development of a new technological platform also causes changes in the requirements related to traditional regulatory tasks. The access to broadcasting is considerably extended, resulting in new issues related to identification of the primary license holder. In 2005, the Council for Radio and Television Broadcasting strived, both in the European Commission and within the EPRA (European Platform of Regulatory Authorities), that the national regulatory authorities closely cooperate and mutually exchange information. Agreement on exchange of information on stations, where it is not clear at first sight which body performs the statutory supervision, can be consid-

ered to be the most important in this respect. A specific contact person responsible for communication with the partner institutions and the European Commission was appointed within the Council in order to facilitate such cooperation. In case of satellite broadcasting, each individual regulatory authority must have information on all programs that are transmitted from its jurisdiction. A common functional database is being developed to this end; the Council is actively involved in its creation. If a license is revoked or broadcasting prohibited, the given country shall notify its foreign partners of this fact, together with proper justification.

## **Electronic Program Guide (EPG)**

### **Brief information on EPG**

Electronic Program Guides (EPG) constitute a new branch of teletext services. Their establishment was motivated by the effort to facilitate orientation of viewers in the constantly increasing offer of television programs. Electronic guides should apply in cases where printed or teletext program guides no longer meet the requirements for simple and operative obtaining of information on programs currently broadcast by the individual stations or information as to where a certain program can be found. In addition to program services, EPG may also provide other services of a non-program character, e.g. e-mail, betting or games.

Program services provided by EPG can be divided to basic services, i.e. navigation allowing the viewers easier orientation in programs, and extended services whose sense is to provide the viewers with greater user comfort and offer them a new added value. A broader approach, where EPG becomes a gate to other services, further allows for effective commercial use and may be a substantial course of income.

The possibilities of the extended offer include, e.g.:

- planning of future watching of a program (most frequently recording of programs or searching for movies, which can be set in a manner similar to VCR);
- favorites, i.e. the possibility to choose the order of most favorite stations, where the program of the station watched most frequently shows first. Many operators do not provide this function as it limits commercial use of less favorite channels;
- reminder that the previously chosen program or a program in a favorite field is beginning;
- search for programs on the basis of key words from the information services.

### **Provision of information on programs**

This service often has the character of a supertext, which is an advanced teletext service with navigation similar to hyperlinks. Operators either employ a special team of operators for its creation or create it themselves, however, always on a weekly basis (or a maximum of 14 days), EPG must not be overloaded. Supertext most often contains a brief description of the program, annotations, information on actors, directors, etc.

The position of the station in the overall menu is very important for the basic navigator. Of course, the first position is the best. The most frequent graphic design is picture in picture (a window shown on the screen in the form of a drop-down box).

### **Legislation on EPG**

EPG is currently regulated by Act No. 127/2005 Coll. and particularly Sections 72 and 83 of the Act. It is likely that EPG will also be affected by amendment to Act No. 321/2001 Coll., on radio and television broadcasting. Regulation of EPG has two aspects:

- technical and organizational, falling fully within the competence of the CTO;
- the contents, falling primarily within the competence of the Council.

However, with respect to EPG, certain technical solutions are (or could be) directly reflected in the presented contents. This requires cooperation between the CTO and the Council, also in the framework of Act No. 127/2005 (whose implementation is controlled by the CTO).

At instigation of the CTO, during July, the Council drew up draft terms and conditions for the Duties of Persons Providing Electronic Program Guides (EPG) and provided them for public

discussion. Fundamental comments were provided particularly by the Czech Television and the Czech Digital Group and were mostly incorporated in the draft.

The Council's proposal reflects particularly the following principles:

- the persons providing EPG are obliged to offer their services to all radio and television broadcasters under fair, appropriate and non-discriminatory conditions and in compliance with the rules of economic competition which allow all (authorized) recipients to receive the services of these broadcasters;
- all programs must be equally accessible, i.e. it must be possible to display information on programs and selection of each individual program must be carried out by equal or similar manipulation of the remote control. It is not permissible that some programs be placed at a disadvantage by the fact that access to them is more difficult than to other programs;
- it is necessary to use a justified and reviewable method of placement of programs in the EPG (e.g. according to the order of applications, alphabet, television ratings, etc.)
- it is necessary that free programs are at least equally accessible as paid programs, provided that these programs are disseminated in the relevant public communication network;
- it must be ensured that SI data in the transport data flow contain information on programs in accordance with the relevant standard, ETSI EN 300 468, par. 5.2.4;
- coding table A 1 of the relevant standard must be used for coding of alphanumeric characters in all text fields;
- the contents presented in the framework of the EPG on the screen are subject to the provisions of Act No. 40/1995 Coll., on regulation of advertising, and the Broadcasting Act.

At the present time, the draft terms and conditions for operation of the EPG is being finalized at the CTO.

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

## Instigations, complaints, petitions, provision of information

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 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 cited Act, the obliged person publishes, in his annual report on activities in this area for the previous calendar year, information on the number of lodged requests for information, number of lodged appeals against decisions on these requests, extracts of substantial parts of judgments in this relation, results of proceedings on sanctions for non-compliance with the Act and other information on application of the Act.

The procedure and manner of addressing petitions is regulated by Act No. 85/1990 Coll., on the right to petition. In the sense of the Act, a petition is a request, proposal or complaint in a matter of public or other common interest that falls within the competence of a specific governmental body.

The procedure and manner of addressing complaints were regulated by Government Decree. 150/1958 U.L., on dealing with complaints, notifications and instigations of working people (repealed as of December 31, 2005). Pursuant to Section 15 of the Decree, the Office of the Council for Radio and Television Broadcasting prepared and submitted a report on complaints received, addresses and unresolved, including analysis of their contents, causes of established shortcomings and specification of remedial measures. With respect to the fact that the Council submits its Annual Report for 2005, i.e. a period when the aforementioned Decree was still in force, for the sake of completeness, this document also contains a report on complaints as required by the said Decree.

Number of instigations and complaints	1105
Number of petitions	32
Number of requests for information	761
Total	1898

## Instigations and complaints

(in cases other than cases of common interest – procedure pursuant to Government Decree No. 150/1958 U.L.)

	Total
Number of instigations and complaints within the competence of the Council	797
Number of instigations and complaints outside the competence of the Council	308

## Petitions

(applications, proposals and complaints in cases other than cases of common interest – procedure pursuant to Act No. 85/1990 Coll.)

	Total
Number of petitions within the competence of the Council	27
Number of petitions outside the competence of the Council	5

## Contents of instigations, complaints and petitions

in the structure pursuant to the provisions of the Broadcasting Act and the license conditions, as well as other legal regulations and without regulation

Number

<b>A) Within the competence of the Council</b>	
Freedom of speech:	
– intervention in the freedom and independence of broadcasting over and above the framework of law (Section 31 (1))	38
– objectivity (impartiality) and balance of information (Section 31 (2))	38
– separation of opinions and evaluating commentaries from news (Section 31 (2))	81
– objectivity (impartiality) and balance of news and political programs (Section 31 (3))	10
– representation of political parties and movements, opinions thereof, and opinions of the individual groups of the public in the broadcast program as a whole, taking account of their real position within the political and social life (Section 31 (3))	9
Necessary limitations to the freedom of speech – protection of human dignity	12
– inciting to hatred due to race, sex, religion, nationality or association with a certain group of population (Section 32 (1) (c))	11
– detracting from, apologizing or approving brutal or inhumane behavior (Section 32 (1) (b))	9
– showing, without justification, dying people or people exposed to heavy physical or mental torture (Section 32 (1) (f))	9
– protection of specific persons affected by the contents of broadcasting (Sections 35 to 41)	6
Necessary limitations to the freedom of speech – promotion of war (Section 32 (1) (b))	2
Necessary limitations to the freedom of speech – protection of minors:	13
– capability of seriously affecting physical, mental or moral development of minors (pornography, gross gratuitous violence and other) (Section 32 (1) (e))	93
– hypothetical capability of endangering (6:00 A.M. to 10:00 P.M.) physical, mental or moral development of children and youth (Section 32 (1) (g))	4
– immediately preceding verbal warning of such a program; for TV programs, a graphic symbol during the entire program (Section 32 (1) (h))	4
Subliminal communications (Section 32 (1) (d))	6
Program duties of statutory broadcasters:	
– pursuant to the Act on CT and Act on CRo	
– balanced offer in the program structure of the statutory broadcaster – viewpoints: age, sex, color of the skin, faith, religion, political or other opinions, national or ethnic origin, social origin, membership in a minority (Section 31 (4))	21
Broadcasting on own behalf, on own account, at own responsibility (Section 32 (1) (a))	5
Important and urgent notices – broadcasting time at request of governmental agencies or self-governing bodies (Section 32 (1) (i))	0
Identification of the program:	
– logo in television broadcasting (Section 32 (1)(l))	
– identification of a radio program at least once every hour (except for comprehensive programs) (Section 32 (1) (m))	72
Subtitles for part of programs in nationwide television broadcasting (Section 32 (2))	3
Broadcasting of events of substantial social importance – misuse of the exclusive right (Section 33 (1), (2), Section 34)	0
European quota in television broadcasting – compliance (Sections 42 to 44)	4
Broadcasting of advertising and sponsored programs:	
– contents of advertisements and teleshopping (Section 48)	
– of which alcoholic beverages (Section 52)	
– broadcasting of advertisements and teleshopping (Section 49)	
– temporal scope of advertisements and teleshopping (Sections 50 and 51)	
– rules for sponsorship of programs (Section 53)	
– unseparated, misleading, surreptitious and comparative advertising, advertisements for selected commodities (the Advertising Act)	9
Broadcasting in cable systems – duties of broadcasters	
– inclusion of a local information channel in the cable system (Section 54 (1))	
– inclusion of terrestrial broadcasting of all nationwide programs (including local broadcasting on shared frequencies) in the cable system, mutually free-of-charge (Section 54 (2) and (3))	

Regulation of ownership:	
Plurality of broadcasters, cross-ownership (Sections 55 to 57); merger of broadcasters (Section 58)	2
Unauthorized broadcasting (Section 60 (5))	5
License proceedings (Sections 15 to 18)	67
Change in the time frame and geographical area of broadcasting and the set of technical parameters (Section 21 (1) (b); sharing the set of technical parameters, compliance with the license conditions	44
Basic program specification – compliance with the license conditions (Section 21 (3), fifth sentence)	14
Program license conditions – compliance (Section 21 (1) (d))	27
Prolonging the term of the license (Section 12 (8))	12
Extension of the program offer, registration – notification (Section 29 (1) (c))	14
Commencement of broadcasting within the set deadline (Section 12 (6), Section 63 (2))	3
Nationwide scope of broadcasting (Section 2 (1) (c))	6
Bankruptcy of the broadcaster (Section 63 (2))	1
International treaties on protection of investments – compliance	0
Position, competence and duties of the Council – compliance (Sections 4, 5 and 6)	4
Independence and impartiality of the Council – compliance (Art. 3 of the Statute of the Council)	2
<b>B) Outside the competence of the Council</b>	
Non-compliance with starting times for programs	41
Unprofessional speech and other verbal expressions of announcers and commentators	16
Increased volume of advertisements and tunes (Telecommunication Act, etc.)	35
Protection of intellectual property – compliance (the Copyright Act)	8
Personal data protection – compliance (Personal Data Protection Act)	7
Slow process of creation and approval of the relevant legislation	13
Interference of the signal (Section 64 (2) (c) of the Telecommunications Act)	27
Failure to broadcast signal for the VPS function	11
Broadcasting in internet networks	23
Non-functional websites of operators	7
Functionality of other interactive means	3
Payment of radio and television fees (Sections 2 and 3 of the Act on Radio and Television Fees)	78
Economic management of broadcasters	13
Breach of contractual obligations related to reception of satellite and cable broadcasting	6
Marketing activities of the broadcasters on the media market	2
Lack of correspondence and other unethical conduct of broadcasters	15
Unethical personal relationships of employers of broadcasters	2
Unethical presentation of posters and printed materials	3
Other public production of audiovisual and audio works (Audiovisual Act, etc.)	3

### **Provision of information pursuant to Act No. 106/1999 Coll., on free access to information**

The Council disclosed basic information pursuant to Section 5 of the above-cited Act both in the front office of its seat and in a manner allowing for remote access at [www.rrtv.cz](http://www.rrtv.cz). In 2005, the Council received 761 written (including electronic) requests for provision of information.

Of these requests, the Council partly or fully rejected 164 requests which lacked requisites pursuant to the Act (usually identification of the applicant) or were not concerned with the competence of the Council (in this case, it notified the applicant thereof); the Council dismissed the requests without issuing a decision.