

Antitrust: Commission sends Statement of Objections to O2 CZ, CETIN and T-Mobile CZ for their network sharing agreement

The European Commission has informed Czech operators of mobile telephony O2 CZ and T-Mobile CZ, as well as the Czech telecom infrastructure provider CETIN of its preliminary view that their network sharing agreement restricts competition in breach of EU antitrust rules.

Commissioner Margrethe **Vestager**, in charge of competition policy, said: *“Operators sharing networks generally benefits consumers in terms of faster roll out, cost savings and coverage in rural areas. However, when there are signs that co-operative agreements may be harmful to consumers, it is our role to investigate these and ensure that markets indeed remain competitive. In the present case, we have concerns that the network sharing agreement between the two major operators in Czechia reduces competition in the more densely populated areas of the country.”*

O2 CZ and **T-Mobile CZ** are major operators in the Czech retail mobile telecommunications market. O2 CZ's mobile infrastructure and wholesale business have been transferred to **CETIN**, a network infrastructure company belonging to the same corporate group.

The network sharing cooperation between O2 CZ/CETIN and T-Mobile CZ started in 2011 and has been increasing in scope. Currently it covers all mobile technologies (i.e. 2G, 3G and 4G) and the entire territory of Czechia with the exception of Prague and Brno, thus amounting to around 85% of the population.

Network sharing is a widespread practice that can facilitate the roll out of electronic communications networks by reducing costs. In most cases, network sharing is a source of efficiencies. However, in some circumstances it may have a negative impact on competition.

The Commission assessed a number of specific circumstances in the present case, including the fact that:

- the Czech mobile communications market is highly concentrated with only three mobile network operators,
- the sharing parties O2 CZ/CETIN and T-Mobile CZ are the two largest operators, with their networks serving approximately three quarters of subscribers.

The Commission, therefore, has reached the preliminary conclusion that the network sharing agreement between the two main mobile operators in Czechia **restricts competition and thereby harms innovation** in breach of EU antitrust

rules.

The Commission holds the view that in this instance, instead of leading to greater efficiencies and higher service quality, the network sharing agreement is likely to remove the incentives for the two mobile operators to improve their networks and services to the benefit of users.

If confirmed, this would infringe [Article 101](#) of the Treaty on the Functioning of the European Union, which prohibits anti-competitive agreements.

The sending of a Statement of Objections does not prejudice the outcome of the investigation.

Background

The Commission opened a [formal investigation](#) in October 2016.

02 CZ is a mobile communications subsidiary of the PPF Group, with more than six million lines, both fixed and mobile.

T-Mobile CZ is a mobile communications subsidiary of the Deutsche Telekom group, operating in the Czech Republic since 1996.

The Czech mobile communications market is highly concentrated, with three mobile network operators (02 CZ, T-Mobile CZ and Vodafone) accounting for almost the whole market. Together, 02 CZ/ CETIN and T-Mobile CZ serve approximately three quarters of subscribers. Vodafone is smaller and, unlike the network sharing parties, has no meaningful presence in the fixed telecoms segment.

The Commission's analysis is in line with the principles applied by the Body of European Regulators for Electronic Communications (BEREC) in its [common position](#) on mobile infrastructure sharing of 13 June 2019. The assessment concerns current and legacy technologies (2G/3G/4G) and is without any prejudice to any future assessment of network agreements involving emerging technologies such as 5G, which may have very different characteristics.

Article 101 of the Treaty on the Functioning of the European Union (TFEU) and Article 53 of the EEA Agreement prohibit agreements and concerted practices that may affect trade and prevent or restrict competition. The implementation of this provision is defined in the Antitrust Regulation (Council Regulation No 1/2003), which can also be applied by the national competition authorities.

Article 11(6) of the Antitrust Regulation provides that the opening of proceedings by the Commission relieves the competition authorities of the Member States of their competence to apply EU competition rules to the practices concerned. Article 16(1) further provides that national courts must avoid adopting decisions that would conflict with a decision contemplated by the Commission in proceedings it has initiated.

There is no legal deadline for bringing an antitrust investigation to an end.

The duration of an antitrust investigation depends on a number of factors, including the complexity of the case, the extent to which the companies concerned cooperate with the Commission and the exercise of the rights of defence.

More information is available on the Commission's competition [website](#), in the public case [register](#) under the case number [40305](#).