

## CONFERENCES AND REPORTS

### Report from the international online workshop “Competition and Telecommunications’ Network Sharing”

On 23 October 2020, the international online workshop “*Competition and Telecommunications’ Network Sharing*” took place. The workshop was organised by the Department of European Law of the Charles University and Antitrust, a Czech competition law review and project focused primarily on the sharing of knowledge and expertise in the area of competition law. The workshop was further kindly supported by the Representation of the European Commission in the Czech Republic and by the Czech law firm Rowan Legal. The goal of the workshop was to gather regulators, legal practitioners and academics to discuss the phenomenon of network sharing, a situation where multiple mobile operators share parts of a single mobile network infrastructure. This phenomenon is especially interesting now, when new 5G networks are being deployed throughout the EU.

The workshop itself was subdivided into two parts: the first bloc consisted of presentations of the keynote speakers while invited experts presented their contributions in the second bloc. The entire event was moderated by **Václav Šmejkal**, Associate Professor at the Department of European Law of the Faculty of Law of the Charles University. It took over three hours and sparked numerous interesting discussions involving both guests of the workshop and registered spectators.

In the bloc of keynote speeches, experts from the European Commission, Czech Telecommunication Office and the Czech office for the Protection of Competition shared their views. **Rita Wezenbeek**, head of Unit C1, Antitrust Telecoms, of the European Commission’s Directorate-General for Competition shared her views on the pros and cons of mobile network sharing under EU anti-trust rules. Her presentation was an overview of the broader context of current challenges in the area of electronic communications as well as the possible competitive concerns related to network sharing on the background of the current state of play. This included a mention of some of the more recent developments in the area of network sharing from the viewpoint of competition law. Furthermore, a brief discussion of the 5G network rollout was included. **Pavel Šubr**, Deputy Director of the Economic Regulation Department and of the Head of Price Regulation Unit of the Czech Telecommunication Office held a presentation on the regulatory role of the Office in the process of 5G network deployment. In this presentation, he explained the Czech Telecommunication Office’s approach to network sharing in the light of the new phenomenon of 5G networks. After covering the expectations regarding 5G and the pros and cons of network sharing, he focused on the Czech Telecommunication Office’s viewpoint of *ex ante* regulation. In particular, the conditions of the Czech auctions for 5G frequencies and the agency’s competences regarding commercial agreements were explained. Last but not least, **Hynek Brom**, the First Vice-Chairman of the Czech Office for the Protection of Competition, deliberated on the question when sharing of networks can be beneficial and when it should be considered a cartel. On the one hand, he mentioned possible positive and welcome effects of desirable forms of sharing. These include cost reductions for undertakings and better and cheaper services for consumers. On the other hand, network sharing agreements can also lead to anti-competitive effects. Network sharing agreements should thus always be analysed thoroughly but also predictably.

After a short pause, the event has resumed with contributions of legal practitioners and academics. **Jan Měkota**, Managing Associate at the law firm Rowan Legal, discussed the governmental support of rapid 5G deployment and applicable state aid rules, thus taking a look at the legal boundaries faced by EU Member States attempting to support 5G network deployment. **Martin Lukáš**, Partner at the law firm Weinhold Legal, continued with a talk on the historical experience of virtual network operators with supervising authorities. His presentation looked back at the historical development on the Czech telecommunication services market. Looking back at possible shortcomings

of regulation on the Czech ADSL market, he stressed the importance of strong regulatory incentives for the market's efficiency. **Jiří Kindl**, Partner at the law firm Skils and Lecturer at the Faculty of Law of the Charles University, discussed the counterfactual analysis in network sharing under EU competition law. His contribution discussed *inter alia* the importance (and difficulty) of selecting the proper counterfactual to assess an allegedly anti-competitive behaviour in relation to network sharing. For example, multiple hypothetical counterfactuals could be considered based on the technology generations in question, the sharing's territorial span and the specific form of network sharing. **Miroslav Jakab**, Member of the Department of European Law of the Faculty of Law of the Charles University, discussed the possible development of EU competition law enforcement in relation to mature 5G networks. He proposed that the current situation in the area of competition law enforcement and expectations regarding 5G networks do not seem to indicate an increase in enforcement linked to the introduction of the new generation of networks. Not last in importance, **Jiří Mňuk**, Attorney at the law firm Skils and Ph.D. Student at the Commercial Law Department of the Masaryk University Law School, addressed the geographical scope of mobile network sharing. In his entry, he discussed network sharing in both urban and rural areas and called into question some common assumptions regarding network sharing in urban areas. Furthermore, the related competitive concerns seem to be rather abstract. Some of the concerns linked to densely populated areas may be even reduced with the introduction of new 5G networks. In the conclusion of the entry, he proposed that the geographical scope of network sharing should not be regulated.

Thanks to Antitrust, the co-organiser of the event, peer-reviewed proceedings of this workshop will be published to allow the active participants to express their ideas in more detail. Anyone interested will thus be able to dive into the topics discussed during this event and study them in more depth. As regards the open questions about the future of network sharing in the era of 5G, it will be interesting to observe how they resolve in practice.

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