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BROADCASTING: Regulatory Issues

Country: *CZECH REPUBLIC*

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The attached questionnaire was undertaken in preparation for the biennial OECD Communications Outlook. The responses provided by Member countries on broadcasting regulation were used to provide information supporting the analytical sections published in association with data. A similar questionnaire with responses on telecommunication regulation is also available. In some cases, data for individual firms, used to compile OECD totals, have not been published at the request of the respondent. For further information, including data, see **OECD Communications Outlook 1999** and <http://www.oecd.org/dsti/sti/it/index.htm>

Broadcasting market status (Questions 1- 3)

1. Please provide details of the broadcasting and cable television infrastructure provision in your country.

Infrastructure provision for following service	Number of licensed operators (1998)	Number of privately owned companies ¹	Number of public service organisations ²
Terrestrial TV (National coverage ³)	3	2	1
Terrestrial TV (Local coverage ⁴ only)	70	70	0
Terrestrial radio (National coverage)	5	4	1
Terrestrial radio (Local coverage only)	76	75	1
Cable television service ⁵	73	73	0
Analogue direct broadcast satellite (DBS) service	4	4	0
Digital DBS service	6	4	2

¹ Defined as private sector companies holding one or more licences for service provision.

² Including state-owned corporations or institutions holding one or more licences for service provision.

³ A service with national coverage is defined as a service by a group of television or radio stations distributing a majority of the same programming, that are licensed on a national or regional basis but collectively provide nation-wide coverage. Affiliating companies of the nation-wide broadcast network are included in this category. If new operators have been licensed to provide national coverage in the last three years but are at the stage of rolling out networks please include these operators in the total.

⁴ A service with local coverage is defined as a service by a group of television or radio stations that are licensed on a national or regional basis but distribute the programming in the local area only. If new operators have been licensed to provide local coverage in the last three years but are at the stage of rolling out networks please include these operators in the total.

⁵ Please indicate if more than one organisation is permitted to own and operate cable television infrastructure in the same area.

2. Please provide details for the major public / private terrestrial TV broadcasting companies in your country. They include state and privately owned organisations providing broadcasting services with national coverage.

Name of public terrestrial TV broadcasting companies	Ownership Status (1998) (e.g. state-run / state owned / privately owned)	Do they own transmissions infrastructures? If not, please indicate the name of company which provide transmission infrastructures.
<i>Ceská televize (Czech Television)</i>	<i>state owned</i>	<i>Ceské radiokomunikace, a.s.</i>
<i>CET 21, s.r.o.</i>	<i>private</i>	<i>Ceské radiokomunikace, a.s.</i>
<i>FTV Premiéra, s.r.o.</i>	<i>private</i>	<i>Ceské radiokomunikace, a.s. and in rare cases private companies</i>

3. What was the price of cable television service for a subscriber in the largest city of your country on 1st January 1998? Basic service corresponds to the least expensive option to a customer and premium service the most expensive option. (Local currency, current prices)

Cable Television services	Basic service			Premium service	
	Connection	Monthly subscription fees	Number of cable channels included in the basic option (excluding free services)	Monthly subscription fees	Number of cable channels included in the premium option (excluding free services)
<i>Kabel Plus Praha, a.s.</i>	<i>1 000 CZK</i>	<i>69 CZK</i>	<i>10</i>	<i>380 CZK</i>	<i>31</i>

Broadcasting Regulatory Framework (Questions 4 - 9)

4. Which organisation(s) administer the following services (carriage and content) in your country and what are their main responsibilities? Please mention agencies dealing with spectrum allocation and management, and providing licences.

Please provide details:

a. *Terrestrial broadcasting service: The Council of the Czech Republic for Radio and Television Broadcasting decides about frequencies in close co-operation with the Czech Telecommunication Office. The Czech Telecommunication Office ensures the international as well as national co-ordination of the whole frequency spectrum. The Council subsequently administers only the part which is designed for radio and television broadcasting, including, inter alia, also frequency allocations.*

b. *Cable Television service : The Council provides licences*

c. *Direct broadcast satellite (DBS) service : the same as in part a.*

The Council of the Czech Republic for Radio and Television Broadcasting decides about frequencies in close co-operation with CTU, specifically the department of MDS CR. This department ensures international as well as national co-ordination for the whole frequency spectrum. On the basis of its outputs, the Council subsequently administers only the portion which is designed for radio and television broadcasting, including, *inter alia*, also frequency allocations. However, its competence is set out only by a general term (“administration of the frequency spectrum designed for radio and television broadcasting”) without a definition in the law of the related terms and necessary co-operation of CTUY/MDS CR.

This gap is bridged by the Rules of Mutual Co-operation between the Council and CTU, but the competencies of the Council are frequently questioned for a variety of reasons. Therefore, it is necessary to have a more precise definition in the new Broadcasting Act as well as the Telecommunication Act with an adequate reflection in the law about competencies, including for so-called new technologies.

Frequency spectrum, including radio and television broadcasting, was originally administered by the predecessor of MDS CR. As the model proved to be inadequate in the context of rapid licensing of radio and television stations, the administration of the relevant portion of the frequency spectrum was assigned in 1994 to the Council. With respect to the implementation of the Broadcasting Act, the return to the original state would be impossible at the time being and dysfunctional in the future. Nevertheless, it appears as the starting idea in the new draft telecommunication bill.

Following are the principle tasks pursued by the Council of the Czech Republic for Radio and Television Broadcasting and its Office by the law:

1. Creation of principles of the Czech policy in the area of radio and television broadcasting as well as the concept of its development [Section 2, §1, a.) and c.) of the Council Act];
2. Development of plurality in broadcasting and independence of its operation (Section 2 §2 of the Council Act);

3. Performance of the state administration in the area of broadcasting (Section 1 §3 of the Council Act);
4. Monitoring of compliance with legal regulations related to radio and television broadcasting (Section 1 §2 of the Council Act);
5. Obligatory presentation of Reports on the State of Broadcasting and Activity of the Council to the House of Deputies of the Parliament once a year subject to the law and, furthermore, of partial reports twice a year subject to the resolution of the Standing Committee of the Parliament for the Media of 9 October 1997 (Section 2 §2 of the Council Act);
6. Awarding and revoking of broadcasting licences (terrestrial services) and carrying out of broadcasting registrations (cable and satellite services) [Section 2 §1 d) of the Council Act];
7. Supervision over notifications of variations in broadcasters and decision making about variations (Sections 11-13, 15-17 and 19 of the Broadcasting Act);
8. Documentation of licences and registrations and their variations [Section 2 §1 h) of the Council Act and Sections 11, 14, 16, 17 of the Broadcasting Act];
9. Creation of the Frequencies Utilisation Plan [Section 2 §1 b) of the Council Act];
10. Monitoring of compliance with technical parameters in broadcasting [Section 11 of the Broadcasting Act, Section 2 §1 b) and j) of the Council Act];
11. Performance of the state administration in the area of the frequency spectrum [Section 2 §1 j) of the Council Act];
12. Setting out of deadlines for remedy of discovered breaches of duties set out by the law and imposition of fines on broadcasters or illegitimate subjects [Section 2 §1 f) of the Council Act, Section 20 of the Broadcasting Act];
13. Drawing up of opinions about draft international agreements and pursuit of signed international agreements in the area of broadcasting [Section 2 §1 g) of the Council Act];
14. Monitoring of compliance with programme duties of broadcasters subject to the law, licenses or registrations [Section 1 §1 f) of the Council Act and Section 5 §1 1 a) of the Broadcasting Act] and monitoring of compliance with duties in broadcasting of advertisements, teleshopping or sponsorship, in insertion of advertisements into programmes and the airtime limit of advertisements and teleshopping [Section 6, 6a, 7, 20 of the Broadcasting Act, the Advertising Act];
15. Monitoring of compliance with special duties and rights of the public broadcasters Cro and CT (Section 9, 20 of the Broadcasting Act, Act No. 483/91 of Coll. about Czech Television, Act No. 484/91 of Coll. about Czech Radio) in co-operation with the Council of Czech Radio and the Council of Czech Television.

5. Please provide a description of significant recent policy changes affecting the provision of broadcasting services, as well as any draft laws, or regulatory proposals to be implemented in 1998.

Please provide details:.

Members of the Council and the Office participate in discussions about the concept in the area of the information mass media drafted by MK CR which aims at a review of current legal regulations in the area of information mass media and at ensuring compatibility with the law of the European Communities. This area covers already the specific preparation of the Press Bill and the Telecommunication Bill. It should also result in a new law concerning radio and television broadcasting, which could also include legal regulation so far treated by other legal regulations (Advertising Regulation Act, the law concerning the Council of the Czech Republic for Radio and Television Broadcasting). This concept is still in the stage of discussions by a large group of media experts.

Designated Members of the Council and professional staff of the Office represent the Council in discussions on the law to limit media concentration and cross-ownership which is legislative initiative of MK CR. The draft material is to be ready for presentation to the Czech government by 30 April 1998. At present, this draft bill is in the stage of discussions about the objectives of the concept under preparation and the draft material solution at the meetings of the group of MK CR whose members are media experts and experts of the state administration. The objective of this draft bill is to create a separate legal regulation of the given issue to reach transparency in ownership relations in the media.

Another bill with participation of the Council by means of its motions, proposals and comments concerns provision of information about activity of bodies of the state administration and regional self-administration. The bill is in the stage of a working version of the draft material prepared also by MK CR and discussed by a group of media experts. This bill aims at meeting Article 17 §5 of the Bill of Fundamental Rights and Freedoms by setting out the duty of the state and self-administrative bodies to provide information about their activity. The Czech legislation has so far been missing an independent comprehensive law regulating rights and duties in this area.

Other activities in preparation of new legal regulations drafted by MK CR include the participation of the Council in the draft material of the new copyright law (the Council has already sent its concrete comments to MK CR) and the draft material of the law on periodicals (the Council commented on individual provisions of this draft regulation as well).

It is vital not to delay the signature of the European Convention on Transfrontier Television by the Czech, inasmuch as there has been no obstacle to it for several years.

It is also purely practical problems that push the Czech Republic to speed up the signature of the Convention.

As the Czech Republic did not sign the Convention, representatives of the council are permitted to attend meetings of the Standing Committee for Transfrontier Television (CDTT) only as observers. Nevertheless, this statute enabled them to learn about the process of amending the Convention, a process which continued throughout the whole of last year. The objective of the modifications in preparation which are to amend the Convention is to reach full compatibility with the Directive. The most complex issues during the discussions about the amendment to the Convention turned out to be the issues delocalisation of transmitting subjects, jurisdiction of the convention (especially with respect to the

different statuses of member states of the Convention, non-members and EU countries), teleshopping, drugs and medical preparations, and exclusive rights.

One of the sharpest conflicts at the CDTT meetings ended the discussion on the definition of certain measures against so-called delocalisation of broadcasters. Presented was the text of a new provision on the Convention which would allow accelerated sanctions in case of delocalisation. Most present representatives of the EU members states (excepting France) of course opposed the text, while EU non-members (especially Switzerland, Poland and Turkey) generally supported the adoption of the new provision). It must be noted that delocalisation is a hot issue even in the Czech Republic (e.g.; concerning some programmes offered by Multichoice). A potential solution to some controversial parts of the amended Convention seems to be the literal adoption of the text of the Directive (e.g. concerning the issue of jurisdiction).

THE STATE OF HARMONISATION OF MEDIA LEGISLATION WITH THE EUROPEAN UNION

Following are the main areas which will, in the future, need harmonisation of Czech legal standards with EU media legislation and the related key legal standard of the EU in this area, Directive No. 89/552/EEC (new version No. 97/36/EC):

1. *Freedom to receive.* The EU experts question the freedom to receive broadcasting services in the Czech Republic. Their reason for this opinion is the fact that the Broadcasting Act requires cable operators to register as broadcasters and comply with the same provisions as classical terrestrial broadcasters. The basis for these provisions is that programmes of choice (which also includes all programmes taken over by cable television from satellite) must comply with Czech law. However, this condition is unacceptable by the EU, as it prevents -- according to the explanation of EU officials -- the free movement of information required by the Directive. The Broadcasting Act classifies broadcaster as "broadcasters with licence" (licensed broadcasters/licensees) and "broadcasters with registration". No other distinction is set out although the actual difference between the two is considerable. In this relation it is necessary to underline the enacted unfit provision which enables to revoke licence conditions. If o, on the contrary, licence conditions drawn up to fit individual broadcaster defined limits to individual broadcasters, the law itself could make licensed or registered broadcasters rather free. The idea solution seems to be the adoption of such legal conditions which comply with the directive. It would be the only case when the EU could not view the situation in the Czech Republic as a restriction of reception. Member states of the EU may enact stricter standards in areas dealt with in the agreements, but these stricter standards are not usually applicable to cable television operators.

2. *Support of European work.* The relevant provisions are missing in the Czech law. Although these issues were formerly treated individually by licence conditions, licence conditions were massively revoked on broadcasters' applications after Amendment No. 301/95 of Coll., which led to the disappearance of support to European audio-visual production from the Czech media policy. Given that support of European production belongs to the backbone of European legal standards, it will be necessary to modify the Czech law in this spirit. The recent developments, as reflected in the new version of the Directive, emphasise the need to support European production by means of quotas; on the other hand, it grants certain freedom regarding the concrete level of quotas and the timetable for reaching them. It must be emphasised that what matters in evaluating the propensity of the Czech Republic to join the EU is not so much the actual state of introducing European production in the Czech media (which complies to a considerable extent with the requirement set out by the Directive) but mainly the legislative assurance of the requirement. On the other hand, gradual introduction of certain level of quoting should not be a deeply controversial issue given the actual situation in the Czech media.

3. *Independent producers (new works).* The requirement for broadcasting works of independent producers is also completely missing in the Czech law. The Directive requires that television stations reserve at least 10 per cent of their transmission time, excluding the time appointed to news, sports events, games, advertising, teletext services and teleshopping for European works created by producers independent of broadcasters. The respective issue was originally treated in this case by license conditions: the need will be to implement the corresponding requirement directly in the Broadcasting Act.

4. *Definition of European works.*

The Czech legislation also lacks a regulation excluding transmissions of isolated advertising spots unlike the Directive which provides that they shall remain an exception.

6. *Advertising of alcoholic beverages.* Compared to the Directive, Czech legal standards regulate advertising of alcoholic in a softer way. The experts of the European Commission demand that the respective provisions of the Directive which set out a more specific definition of advertising for alcoholic beverages be implemented in the Czech law. This concerns the following provisions:

- advertising of alcoholic beverages shall not link the consumption of alcohol to enhanced physical performance or to driving;
- it shall not create the impression that the consumption of alcohol contributes to social or sexual success;
- it shall not claim that alcohol has therapeutic qualities or that it is a stimulant, sedative or that it is a means of resolving personal conflicts;
- it shall not place emphasis on high alcoholic content as being a positive quality of the beverage.

Provisions with similar formulations already form a part of the Ethical Code of Advertising Activity issued by the Council for Advertising. Hence, they are basically respected by the Czech in material terms and need only to be implemented in the Broadcasting Act in order to facilitate the negotiations with EU bodies.

7. *Protection of minors.* In the Czech legislation, protection of minors is covered by several articles of the Bill of Fundamental Rights and Freedoms and by the Criminal Code. In the Broadcasting Act, provisions on the protection of minors are not fully identical with EU regulation. Similar to point 6 above, the translation and concentration of the relevant provisions of the Directive in the Broadcasting Act will facilitate the negotiations with EU bodies.

8. *Right of reply.* The Czech legislation provides for the right to correct incorrect data (Section 19 of the Press Act). Nevertheless, this institute cannot be considered as an adequate reflection of the right of reply. It may only be expected that the press law, which has already been under preparation for several years, will soon implement this institute in the Czech legislation. As EU legislation is undergoing permanent development, it is necessary that the Czech Republic, as a country associated with the EU, continuously follow the variations in progress and attempt to react adequately in its national legislation. At the same time, the status of associated country enables the Czech Republic to take an active part in a number of groups in future development of the European media legislation.

6. How is broadcasting defined in your country's regulatory framework? In addition, please specify public service obligations stipulated in broadcasting regulations.

Definition of broadcasting: *Radio and television broadcasting means diffusion of programs or picture and sound information by transmitters, cable, satellites and other means intended to be received by the public.*

Radio and television broadcasting is defined as the diffusion of programmes or picture and sound information by transmitters, cable, satellites and other means which are intended to be received by the public.

Public service obligations:

Special duties and authorisations of operators under the law (Broadcasting Act, Session 9) are as follows:

- 1) According to the law, the basic mission of operators is to serve the public interest, to contribute towards the shaping of a democratic society and to reflect its plurality of views, particularly by assuring that their broadcast do not unilaterally favour certain opinions, one religious denomination or *Weltanschauung*, or the interests of just one political party, movement, group or segment of society.
- 2) Under the law, operators are required: a) to insure diffusion of their programmes for the populace of that region for which their broadcasting is intended, in collaboration with relevant telecommunications bodies and organisations; b) to ensure a heterogeneous structure of shows which as a whole, are to satisfy the interests of all walks of life; c) to furnish, with hidden or visible subtitles for the hearing-impaired, at least 25 per cent of the shows aired; d) to produce or contract out a significant share of shows aired so that the cultural identity of nations, nationalities and ethnic groups within the Czech Republic is preserved and developed, and that the development of domestic and European audio-visual creative actives is nurtured; e) to marshal all its financial resources to underwrite the task set forth by this act.
- 3) By law, radio broadcaster operators are reserved transmission facilities (a portion of the range of frequencies) and a transmitter network which makes it possible to cover the entire Czech Republic with a single television programme, including picture and sound information, unless otherwise specified by a special act;
- 4) By law, radio broadcaster operators are reserved transmission facilities (a portion of the range of frequencies) and a transmitter network which makes it possible to cover the entire Czech Republic with two broadcast circuits in the medium wave band, two broadcast circuits in the ultra-high frequency wave band, and one broadcast circuit in the long-wave band.
- 5) has been repealed.
- 6) Financial resources obtained from radio fees and television fees constitute income for the operators under the law.

7. Are there must-carry rules? For example, are cable television or satellite operators required by regulation to provide capacity for certain services? If yes, please elaborate on the reasons.

Please provide details: The cable operator must ensure when providing channels in the cable distribution system that they carry the programmes of the public broadcasters and licence holders which can be received by means of standard receiving equipment at the point of the cable distribution system. This must be undertaken free of charge for both sides.

Broadcasting Act, Section 19 §1: “The cable operator must ensure, when engaging channels in the cable distribution system, that they carry programmes of broadcasters by the law and licensees receivable by means of standard receiving equipment at the point of the cable distribution system free of charge for both sides”.

The Council repeatedly received complaints from the public that some cable operators did not carry programmes of Prima TV in the so-called basic or limited choice. The Council, in co-operation with CTU, adopted the following construction of the “must carry” provision:

– Subject to Section 19 §1, the subscriber to cable distribution must be able to receive programmes of broadcasters by the law or licensees (on condition of the ability to receive at the point) regardless of the subscribed programmes.

– The cable operator must therefore carry in every programme choice programmes of broadcaster by the law and licensees; the fee for the programme choice is subject to the contractual relation between the cable operator and the subscriber of landlord (lessor).

– Regardless of whether the cable operator calls the programme choice “basic” or “limited” or whether he delivers programmes beyond the choice, every choice, be it called “basic” or “limited”, must carry the above-mentioned programmes.

– Reception at the point of the cable distribution system means reception on roofs of homes serviced by the respective cable distribution system, and on most of them.

– The cable operator need not carry a programme which cannot be received on the territory covered by the cable system in K3 quality on roofs of the serviced homes (subject to Regulation RA9 “Measurement of electromagnetic fields of very high and ultra-high frequencies”) such as radio broadcast on medium waves.

– The cable operator is not due to carry programmes of MMDs licencees, satellite broadcasters or other cable operators.

– By preventing the reception of a licencee’s programme by means of a technical arrangement (filtration of signal) the cable operator breaches the above-mentioned provision of the law.

– Filtration of signal of certain programmes cannot be considered as a technical defect of the cable distribution system (insufficient intensity of the signal) mainly because the cable operator’s intention to make the technical arrangement for the reason of prevention, the reception of the programme of certain broadcasters is declared in the operator’s programme choice.

For questions 8-14, please see Annex.

8. Are there any local content requirements for broadcasters and cable television operators in your country in terms of the level of domestically produced content which must be broadcast, the amount of turn-over which must be allocated to domestic production or other criteria? Yes/No

	If Yes, please provide local content specification and where applies.
Terrestrial Television service	No
Cable Television service	No
DBS service	No

9. Are there any limitations on share ratio, number of stations, or other ownership restrictions on entities investing in service providers of terrestrial broadcasting, cable television and satellite broadcasting in your country? Please refer to each service individually, if they have separate restrictions.

If yes, please provide details: No

Cross-ownership and cross sector provision (Questions 10 - 14)

10. Are there any restrictions on terrestrial broadcasting companies from directly providing the cable television infrastructures and services in your country? On the other hand, are there any restrictions on cable television operators from directly providing the terrestrial broadcasting companies in your country?

If yes, please provide details: No

- a. Restrictions on terrestrial broadcasting companies providing the cable television infrastructures
- b. Restrictions on terrestrial broadcasting companies providing the cable television services
- c. Restrictions on cable television operators providing the terrestrial broadcasting

11. Please specify any restrictions on cable television operators and terrestrial broadcasting companies investing (including merging and acquiring shares) in companies that provide other infrastructures or services.

Please provide details: *No*

- a. Restrictions on cable television operators investing in telecommunications operators
- b. Restrictions on cable television operators investing in terrestrial broadcasting companies
- c. Restrictions on terrestrial broadcasting companies investing in telecommunications operators
- d. Restrictions on terrestrial broadcasting companies investing in cable television operators

12. Are there any restrictions or limitations on foreign investment regarding services of terrestrial broadcasting, cable television and satellite broadcasting in your country? Please refer to each service individually, if they have separate restrictions.

Yes/No

If yes, please provide details: *No*

13. Are there any regulations restricting cross media ownership (e.g. broadcast television, radio, newspapers) for infrastructure and services in the same geographical market.
Yes/No

If yes please provide details:

14. What kind of methods are adopted by regulatory authorities in order to measure market shares in broadcasting market? If the measure used is “audience rates”, please describe the methodology used.

Description of market share measurement: *Information is provided by peoplemeter.*

Please provide methodology for measuring audience rates.

Convergence (Questions 15 - 18)

- 15. Under the communication regulation existing in your country how would services provided over the Internet, which some have likened to broadcasting services (e.g. audio and video services transmitted over the Internet) be defined and treated?**

Please provide details: Legislation addressing the issue of the Internet in the Czech Republic is being prepared: it will take into account the necessity to define the competence for solving this issue with respect to the relations both in the press media and in the area of telecommunications, to respect the global character of the Internet, to hold a professional discussion about regulation, and to follow the developments of the Internet regulation in the neighbouring countries and to take an active part in preparation of the respective recommendation of the EU.

During the preparation of legislation, addressing the issue of the Internet in the Czech Republic, it will be necessary:

- to define the competence for solving the issue with respect to the relations both in the press and in the area of telecommunications;
- to respect the global character of the Internet;
- to hold professional discussions on regulation; and
- to follow the developments of Internet regulation in neighbouring countries and to take an active part in preparation of respective EU recommendations.

(From the Report of the Council, March 1998)

- 16. Would a video on demand service be treated differently in terms of regulations, by the transmission methods (for example, PSTN, cable or satellite)?**

Please provide details: See Answers 4 (task 6), 15 and 18. It is still unclear at this time.

- 17. Under the communication regulation existing in your country how would conditional access services, such as in digital DBS services, be treated?**

Please provide details: No regulatory restrictions. See Answers 4 (task 6), 15 and 18. It is still unclear at this time.

18. Please detail plans for digital broadcasting and cable television services.

	Number of Licences to be granted	Expected Number of New Channel Capacity	Expected Date of Service Commencement
Terrestrial TV service	0	6	2000
Terrestrial Radio service	0	20	2000
Direct Broadcast Satellite service	0	4	2000
Cable Television service	8	<i>unknown</i>	

Additional information and comments :

NEW TECHNOLOGIES

The following text is a description of the current state in the Czech Republic:

Digital radio T-DAB

At present, there are two studies by Testcom available to the Council which specify the T-DAB network in TV band III and band L. While the network in TV band III has been optimised and preparatory activities may continue, the network in band L has been proposed as an alternative given that the Czech Republic had failed to obtain the optimum frequency allocation by the time of the first international meeting in Wiesbaden in 1995. The reason was given that T-DAB preparation activities have not been -- and still are not -- co-ordinated at the national level so that there was no proposal of the network in band L available at Wiesbaden. Therefore, the preparatory team proposes another international co-ordination which would allow a reasonable coverage of individual regions by private or public broadcasting services. Some other activities are to be performed in the coming period:

- to establish by the state executive a co-ordinating body (DAB forum) similarly to a number of the neighbouring countries;
- to prepare the background materials and to implement the international co-ordination of the nationwide network on television channel 12;
- to process the requirements for modification of the frequency plan in the band L for regional T-DAB;
- to ensure the software for a proposal of single-frequency networks;
- to implement a pilot project of digital radio (experimental broadcasting); and
- to discuss with television broadcasters the necessary release of television channel 12 (concerning 2 basic TV transmitters and approximately 88 television relay transmitters to be returned to other channels).

Digital television T-DVD

The CEPT meeting held in Chester in July 1997 may be described as the most significant even of recent times. The participants at the meeting formulated and signed the “Multilateral Co-ordination Agreement on Technical Conditions, Co-ordination Principles and Procedures for Introduction of Land Digital Television” which modifies substantially the principles agreed upon at the preceding international conferences for classic television broadcasting (Stockholm). The conclusions of this agreement bring about activities of the Czech Republic in the area of frequency planning linked both in time and material terms to the European process of introducing T-DVB. The following points may be described as the key ones for the coming time:

- preparation of a modified database of analogue television transmitters and relay transmitters according to the CEPT requirements;
- preparation of a concept of development of television broadcasting to the year 2005;
- analysis of the possibility of coverage of the Czech Republic by T-DVB signal and the first proposal of the transmitting network;
- preparation for the international co-ordinating meetings; and
- preparation of the experimental broadcasting.

According to the conclusions of the conference, there are at present bilateral negotiations concerning co-ordination of digital television transmitters. Unless the Czech side has an idea of its own T-DVB network, there is a risk of losing some frequency positions.

As with T-DAB, it will also be necessary, in the case of digital television, to set out procedures and a legislative framework for the establishment and activity of subjects involved in multiplex operations providing services to several mutually competitive television broadcasters.

It is clear that the study on the concept of broadcasting will have to consider the gradual transfer from the existing analogue system to a digital system. Both systems will have to co-exist for some time as elimination of the analogue network may be thought about only after the completion of a digital network (probably at some time after 2005). In this point, there are certain differences to the radio network where analogue transmitters can be operated in certain limited scope after the completion of T-DAB.

ANNEX

Questions 8-14:

There are no content ownership restrictions made by the Broadcasting Act (see below), but by the Concurrence Protection Act (1991, No. 63, Sections 8, 8a, 9).

Broadcasting Act, Section 10, Conditions for the license:

- 1) The license authorises its operator to broadcast in the scope and under the conditions set forth by this act and other legal regulations.
- 2) The license is not transferable.
- 3) The license is granted to applicants by the Czech Republic Council for Radio and Television Broadcasting (hereinafter the "Council"). There is no legal entitlement to being granted the license.
- 4) In evaluating the application (Section 11), the license-granting bodies consider the manner in which the applicant has ensured the prerequisites of plurality, balanced programmes offers (especially that of local programmes), equitable accessibility of cultural values, information and views, as well as how the applicant has ensured the development of the indigenous culture of the Czech Republic's nations, nationalities and ethnic groups, and the applicant's readiness to furnish hidden or visible subtitles for the hearing-impaired to a certain percentage of whose to be broadcast will also be considered.
- 5) In evaluating the application, the license-granting bodies assure that no applicant gain a dominant position in the mass communications media.
- 6) In evaluating applications from companies with an out-of-state asset participation, the license-granting bodies consider the applicant's contribution to the developments in original domestic work, as well as the asset stakes by Czechoslovak individual/entities and their representation in the company's bodies.
- 7) No operator under the law is allowed to be a partner of any commercial company which is applying for or which has already been granted the license.

Section 11. License application

- 1) The license proceedings are initiated by the submission of an application which must state the following particulars:
 - a) name, registered office, legal form of the legal entity and the name of the person authorised to act on its behalf, or the name and permanent residence of an individual intending to be a broadcasting operator;
 - b) documents attesting to the amount of registered capital, individual partner's deposits, amounts of their business shares, Memorandum of Association or Founding Charter, Articles of Association, a list of shareholders, bank details, similar particulars if the applicant is an individual;
 - c) broadcasting hours, broadcasting area and reach, technical and organisation details;
 - d) designation of the programme (name of the station);
 - e) programme structure of the broadcasting and a draft of broadcasting diagram,
 - f) amount or portion of expenditures the applicant will use annually to produce shows domestically;
 - g) share of air time dedicated to shows of domestic productions;
 - h) period for which the license is requested.

- 2) If the applicant happens to be an operator or owner of another mass communications medium in the Czech Republic or abroad, or a participant in a company operating another mass communications medium in the Czech Republic or abroad, the applicant will provide similar information as listed in §1 also on this mass communications medium to the licence-granting body.
- 3) The participant of the license proceedings is only that one who is filing for the license.
- 4) If the applicant is an individual, a document attesting probity and permanent residence in the Czech Republic will accompany the application.

Section 12. License-granting decision

- 1) The license-granting body will rule on the licence application within 90 days from the commencement date of the proceedings.
- 2) The Council may determine that the particulars dealing with the programme structure as listed by the applicant in the license application [Section 11 §1 c)] will be partially or in their entirety binding for the licensed radio or television operator. This decision will comprise part of the ruling in granting the license.
- 3) The ruling on whether the license will be granted is issued for radio broadcast for a period not to exceed 6 years; for television broadcasts, the period should not exceed 12 years.
- 4) The ruling on whether the license will be granted will be in force on the date when the license-granting body receives from the applicant a written statement confirming acceptance of the license; this statement must not include reservations and must be served within thirty days following receipt of the license-granting body's ruling. Otherwise, the ruling will be forfeited and the application will be considered as if it had never been submitted.
- 5) Upon request by the founders or the bodies or persons eligible to file a petition for the incorporation of a Czech legal entity into the commercial register, a ruling may be promulgated granting the licence prior to the incorporation in this register, if it is affirmed that the legal entity has been founded. The authorisation to broadcast will have been established by those entities on the date of incorporation into the commercial register. Commensurate procedures will apply to entities not having a registered office in the Czech Republic.

From the Report of the Council March 1998, chapter on media concentration and cross ownership in the Czech Republic:

This issue corresponds to the tempo of stabilisation of basic institutionalised standards of every society that broke out from the non-democratic forms of control and has to find out its own system of regulation in this area.

In countries that have already created a stable system, one must calculate with the aspect of natural development during the decades with the chance of gradual integration of experiences as well as gradual removal of all that has proved unfit. This procedure may be described as approximate as the way to reach certain marked objectives.

For these reasons, it is absolutely impossible in Czech regulation to implement passively and automatically any model of another country although it has proved fit in the country's conditions.

On the other hand, it is especially the European experience which has shown the Czech Republic just how far the neglect or underestimation of some rules can go. The conclusion is simple: It is necessary to assess the sense and need of the basic rules, standards and objectives and to try and find a Czech way in legislation and administration to meet them.

In this relation, MK CR established a group participating in the basic legislative initiative in the material competence of this department in the given area.

It was decided that, in the future, this area be governed by special law rather than by the Broadcast Act. The European Union does not as yet have a comprehensive legal regulation. The Czech Republic is in the stage of describing key definitions, such as "relevant market". Discussions are being held concerning how far the measure of regulation should go, whether it should be at a nation-wide, regional or local level.

The Council has representatives in the group whose presence guarantees that experiences will be pushed through especially in the following areas:

- the practical possibility of the state to control ownership relations in the media;
- ensuring state control over various forms of indirect links, or pushing through other influences of interest groups in the media;
- the constitution of control bodies, scope of their rights and measure of their control by another body;
- the measure of inviolability of trade secrets and respect for concealment of business intent;
- the possibility of the state to register, regulate or intervene with sanctions and to verify the efficiency of intervention in this area;
- the definition of dominance and concentration in conditions of the Czech market and in relations to other states, and
- the measure and options of an ongoing monitoring of compliance with rules in this area.

The Council regards it as a key objective to ensure conditions for development of a media environment which, as a whole, guarantees the provision of balanced information as the logical basis for mutual relations and positions of owners in individual areas. Hence, all present existing legal standards which only follow formal external features, such as shares of shareholders, structure of ownership, etc., are an important but often auxiliary aspect of the implementation of the above-mentioned objective.

This is also the reason for the need to constitute a body that will not only mechanically control legal and financial links but will monitor, analyse and carry out an ongoing control of the media which will affect the rising risk of unbalance in the manner to which it has the competence.

The Council is not to substitute the activity of independent judicial powers or any both body of the state administration. It is a collective, independent body, a significant component of implementation of the public interest and mainly, it is a regulatory means where other bodies with their competencies and rights cannot meet the task.

This concerns all hidden attempts at avoiding the law whose final effect on the media scene will be a certain form of unbalance. This imbalance has to be pinpointed, defined and the cause has to be found and cured.

Of course, the closest accessible aim should be at least to respect the most common rules related to issues of cross-ownership, concentration and dominance in the market.

So far, legal regulations have followed the way of amendments which mainly concern modifications of the law in those areas which affect the media environment indirectly, such as the area of entrepreneurship in general. However, these modifications were, in some cases, a part of the Broadcasting Act or the Act on Protection of Economic Competition. A dominant position is undesirable, which concerns all mass media. The so-called cross-ownership found its way into provisions of the Broadcasting Act through its amendment, but only in form of the duty of notification. Although a motion of limiting the share was made, the version was declined. The Act about Protection of Economic Competition does not prohibit dominant or even monopoly position as such. Prohibited is only its abuse which is however difficult to prove. These legal regulations do not offer a sufficient support for efficient interventions of the Council nor for an intervention of other bodies.

Creation of media legislation for the area of concentration and cross-ownership is undoubtedly necessary; however, it is clear that, with respect to the complexity of the issue, it must be done gradually. It is also clear that the Council has to be the guarantor of these steps.