

TELECOMMUNICATIONS

1.78

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Adoption of the new Law on Electronic Communications at the earliest possible moment, while complying with the transparent process and involving the industry, especially in the segments that will have serious consequences on the market and operation of the operators.	2017		√	
Involvement of the industry (operators) in the process of drafting by-laws after the adoption of the new Law on Electronic Communications, as well as an active dialogue between the industry and the government regarding the upcoming initiatives for reducing roaming charges.	2018		√	
It is necessary to improve the control mechanisms over the implementation and more efficient application of the regulatory framework in the part of the fixed infrastructure in order to achieve proclaimed liberalization of the fixed market.	2018		√	
Provision of the universal service should be regulated in a clear, transparent, and predictable manner and under economically justified principles.	2018			√
Improving the regulations in the field of electronic communications and implementation of the regulations in the field of environmental protection and protection against non-ionizing radiation in order to ensure a smooth implementation of 4G technology and create preconditions for the implementation of 5G technology.	2017		√	
Ensuring conditions for the provision of public telecommunications services at a fixed location via public mobile communications networks using CLL technology (Cellular Local Loop) throughout the Republic of Serbia.	2018			√
Regulation of IP interconnection between operators in the Republic of Serbia.	2018		√	
Strengthening the capacity of RATEL and other relevant state authorities in order to identify the best regulatory solutions and measures for the protection of competition in the field of electronic communications.	2014	√		
Combating the illegal termination of international traffic through amendments to the Criminal Code.	2016			√

CURRENT SITUATION

This year, the most significant regional ICT event, the Western Balkans Digital Summit, was held on 4 and 5 April 2019 in Belgrade. The conference brought together over 3000 participants and about 200 speakers representing 30 economies. Apart from the Government of the Republic of Serbia that hosted this event, the Digital Summit was attended by representatives of the European Commission, international organizations, regional ministries and regulatory bodies, innovative compa-

nies and other participants. The fact that this event was organized once again confirmed the Government's commitment to ensure economic growth and accelerate regional economic integration through digital transformation. The Regional Roaming Agreement lowering the roaming charges in the Western Balkans was concluded during the summit, bearing in mind the importance of electronic communications for the economic and social prosperity of citizens. Furthermore, an agreement on mutual recognition of trusted services in e-commerce was signed between Serbia and Montenegro.

Taking into consideration the global trends in the telecommunications sector, 5G technology is expected to be one of the biggest waves of the fourth industrial revolution. It is anticipated that the implementation of the new technology will enable innovation and increase productivity in the fields of transport, agriculture, medicine, and logistics through the use of a large number of sensors and data. As for future radio frequency spectrum auctions, the FIC proposes that the model and timeframe for radio frequency spectrum auctions should be selected in consultation with the industry and in a timely manner, with a view to selling those bands that are needed the most from the point of view of technologies used and market demands.

The introduction of new technologies, the construction of the necessary digital infrastructure, the efficient use of public goods, including radio frequencies and telecommunications resources, will depend to a large extent on the regulatory and legal framework that remains to be adopted. The new Law on Electronic Communications is the first major opportunity before us and we hope that the provisions of the law and the accompanying by-laws will create the necessary conditions. The law has not been adopted this year, although the Ministry of Trade, Tourism and Telecommunications has made an effort for it to happen, so we hope that it will be adopted soon.

During 2018, RATEL aligned the identification of relevant markets susceptible to ex ante regulation with the regulatory framework of the European Union (EU). Accordingly, the Regulatory Agency for Electronic Communications (RATEL) carried out new analyses of relevant markets and issued decisions to identify operators with significant market power. RATEL's analysis of the wholesale market for central access provided at a fixed location for mass-market products governs the bitstream access service, which can be implemented through: copper pairs network, xDSL technology and a hybrid fibre optic and coaxial cable (HFC) network of media distribution operators. Additionally, the analysis of the wholesale market for local access to network elements provided at a fixed location also included the dark fibre infrastructure, which will in the future be part of the standard offer of operators with significant market power.

Mobile operators are still faced with the inability to set up and construct base stations in almost any urban area for three key reasons:

1. The first reason involves an arbitrary interpretation and excessively frequent reference by local environmental secretariats to the principle of the prohibition of exposure to non-ionizing radiation sources and the proportionality principle referred to in the Law on Non-ionizing Radiation Protection. To exacerbate the problem, such decisions get confirmed by the Ministry of Environmental Protection in the second instance.
2. The second reason: urban plans arbitrarily introduce restrictions determining the minimum required distance for sites where base stations can be set up in relation to adjacent facilities, although there is no basis in the law governing protection against non-ionizing radiation for such restrictions. Specifically, in their by-laws (General/Detailed Regulation Plans, General Urban Plans, Spatial Plans, Municipal Assembly Decisions), local governments introduce restrictions that are stricter than those imposed by the Law on Non-ionizing Radiation Protection and the Law on Environmental Impact Assessment with respect to base station installation requirements, for example the distance from individual buildings (e.g. 30m away from an adjacent apartment building, or even the prohibition of setting up base stations on residential buildings) leading to the actual inability to cover urban areas with mobile signal. Due to this limitation, mobile operators are in many cases unable to improve the coverage and quality of service in order to respond to requests from customers who complain about service availability.
3. Thirdly, the Law on Environmental Impact Assessment does not impose the obligation to produce an environmental impact assessment for setting up each individual base station, and in practice, local environmental secretariats almost always require this assessment. According to the relevant EU regulations, no environmental impact assessment is required as a condition for setting up a base station. In order to comply with EU regulations in this field, it is necessary to amend List 2 of the Regulation establishing the list of projects for which an impact assessment is required and the list of projects for which an environmental impact assessment may be required, by excluding mobile base stations from this list. Drafting an environmental impact assessment for each individual base station greatly slows down the process of setting up base stations as it takes as long as 9 months on average, and is a significant financial burden.

It is very important to emphasize that in Serbia the restrictions on allowed electromagnetic field levels are several times stricter than in the EU member states, and that the actual values of the electromagnetic field levels measured on the ground are often ten times below the maximum allowed values. We hope that the RATEL website will further educate the population and representatives of local governments, as it provides real-time information about electromagnetic field levels.

Other laws and significant regulations adopted in the previous period that are not part of the sector but will have an impact on telco industry include the Law on Fees for Use of Public Goods and the Law on Personal Data Protection, which will be discussed in more detail in the section titled "Positive Developments".

POSITIVE DEVELOPMENTS

The Regional Roaming Agreement for the Western Balkans (Serbia, North Macedonia, Montenegro, Bosnia and Herzegovina, Albania and AP Kosovo and Metohija) has already brought a significant reduction of charges for end-users as of 1 July 2019, and is expected to further contribute in its second phase to the integration and socio-economic prosperity of the Western Balkans. During the second phase, as of 1 July 2021, roaming charges will be entirely abolished between the aforementioned economies, which will allow customers to communicate as if they were at home (Roam Like at Home). In this way, users in this region will enjoy the same benefits as nationals of the EU Member States. The Telecommunications Committee of the FIC welcomes this initiative as it will lead to overall mobile traffic growth and contribute to the socio-economic prosperity of the region.

Law on Fees for the Use of Public Goods that governs the fees for the use of public goods, which were previously governed by various regulations, was adopted at the end of 2018. The Law on Fees has furthered the legal stability and predictability of business operations, especially having in mind the fact that local governments are prevented from arbitrarily increasing the fees, and that it allows greater transparency of public revenues since it defines the allocation of income from fees.

At the proposal of the Ministry of Trade, Tourism and Telecommunications, great progress has been made regarding the annual fee for the use of radio-relay links, the fee base being regulated at the level of one radio frequency pair on a

radio-relay connection section, replacing the frequency level, as was the case earlier. Despite a significant increase of the fee base, this reduced the financial burden on mobile operators by about 30%. The FIC commends such a solution as it avoids double charging. On the other hand, a reasonably defined fee will encourage further investment into increasing the capacities of mobile operators' transport networks in Serbia.

During 2019, the IP interconnection will be a mandatory part of the standard offers for fixed and mobile termination, which will significantly improve business and accelerate the implementation of transport capacities between operators of public mobile and fixed networks, in line with the already established business practices of electronic communications network operators on a global scale. Since IP interconnection is more advanced than the TDM technology, which has been predominantly used so far, this technological breakthrough will result in a significant reduction in inter-operator costs.

REMAINING ISSUES

The drafting process and the content of the Regional Roaming Agreement in the Western Balkans region would have been of better quality if the industry had been consulted in a timely manner regarding the technical requirements and deadlines for their implementation that mobile operators had to implement. Setting 1 July 2019 as the date on which the Agreement starts to apply means that less than 3 months were allowed for very demanding changes to technical systems. The implementation of the Agreement entailed changes to the technical billing systems both at the wholesale level between the operators and at the retail level towards customers. Also, since no consultations were held, this regulation was introduced during that same business year and was not foreseen during the budgeting process, which adversely affected business predictability and financial results. However, thanks to the professional capacity and initiative of RATEL and the Ministry of Trade, Tourism and Telecommunications, an adequate transitional solution for the Agreement's implementation was found and the same model was used in all six markets.

Public consultations on a Rulebook on amendments to the Rulebook on number portability on public telephone networks at a fixed location and on mobile networks were conducted in May 2018 by RATEL, but without its adoption. Adopting this Rulebook would speed up and simplify the process of number porting.

Given that as of 2016 RATEL started to regulate the provision of public communications services at a fixed location via public mobile communication networks using CLL technology, it is necessary to continue the liberalization of the CLL technology implementation in order to increase the competitiveness and meet the needs of customers, having in mind the effects that have been achieved so far.

There are still certain fees that are not based on cost principles and potentially lead to disproportionately high costs for operators in certain situations. An example of this is the fee for issuing individual licenses for the use of radio frequencies in the case of status change, change of name, or company or operator identification mark, defined by the Rulebook on determining fees for the provision of services under the jurisdiction of RATEL. In this case, the Rulebook provides for payment of up to 50% of the total fee for the issue of an individual license.

Direct Carrier Billing (DCB), as the simplest, most widespread way to buy applications from platforms such as

Google Play, is not yet available in Serbia. DCB involves the purchase of digital content for mobile devices through telecommunication services charges paid by customers to their mobile operators. This model has been operating in the EU for years, including the countries in the region, since the Payment Services Directive (PSD1 and PSD2) recognizes the transaction in question as an exception to payment services. Although the national legal framework is harmonized with the EU, specifically the Law on Payment Services has been harmonized with the PSD1 Directive, the National Bank of Serbia (NBS) has not changed its position that in order to provide this service, mobile operators should be registered as payment institutions, which would make the model commercially unviable.

Problems related to the inability to set up and construct base stations due to an inadequate interpretation and application of environmental regulations, as well as restrictions in local government by-laws regulating spatial planning are explained in detail in the section titled "Current Situation".

FIC RECOMMENDATIONS

- When negotiating international agreements in the field of electronic communications, it would be necessary to organize a public consultation process and involve industry representatives in the consultation process to look at the technical specifics, timeframes and financial implications in order to increase business predictability.
- Adoption of the new Law on Electronic Communications and leaving sufficient deadlines for the implementation of prepaid registration of users and other new features introduced by the law.
- Adoption of the Rulebook on Amendments to the Rulebook on Number Portability for Services Provided over Public Mobile Communications Networks and Rulebook on Amendments to the Rulebook on Number Portability in Public Telephone Networks at a Fixed Location as soon as possible.
- With regard to future radio frequency spectrum auctions, the proposal of the FIC is to select a model and timeframe for radio frequency spectrum auctions, in timely consultations with the industry, with a view to selling those bands that are needed the most from the point of view of technologies used and market demands.
- Precise guidelines should be provided by the Ministry of Environmental Protection to local environmental secretariats, based on applicable legislation, to stop the excessively frequent reference and arbitrary interpretation of the principle of the prohibition of exposure to non-ionizing radiation sources and the proportionality principle referred to in the Law on Non-ionizing Radiation Protection when issuing permits for the construction of base stations.
- Local government professional services need training, in cooperation with the Ministry of Construction, Transport and Infrastructure and the Ministry of State Administration and Local Self-Government, with a view to removing

spatial restraints for the construction and installation of mobile telecommunications infrastructure.

- In line with the comparative practices of developed EU countries such as Germany and Finland, but also of some countries in the region (e.g. Croatia), we propose that mobile telecommunications facilities should be excluded from Schedule 2 of the Regulation establishing a list of projects subject to mandatory impact assessment and the list of projects for which an environmental impact assessment may be required, so that, rather than carrying out an environmental impact assessment for each individual base station, it would be sufficient to provide the local government with a notice of the base station setup including the relevant measurements, prior to its commissioning, whereby local government will have the possibility to carry out inspection.
- Amendment of the Rulebook determining fees for the provision of services within the competence of RATEL with a view to reducing disproportionate costs for operators by applying the cost principle for determining the amount of charges for issuing individual licenses.
- Continuation of market liberalization by applying the CLL technology in accordance with the effects achieved so far and the need to increase competitiveness.
- The NBS needs to issue a positive opinion on the provision of Direct Carrier Billing services according to the EU model, with a view to facilitating the direct payment of digital content on Google Play and Apple Store through telecom operators under the EU model.

DIGITALIZATION AND E-COMMERCE

1.60

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Following a discussion between the state and businesses, formulate a single approach to regulating relations between traditional and digital business models, taking into account the needs of the digital economy development and the state's fiscal interests.	2018			√
Rely on entities that have already identified their users, such as banks, insurance companies or mobile operators, when issuing electronic identification schemes to enable remote user identification.	2017	√		
It is important to facilitate the use of digital identity/signature so that it may reach the widest possible circle of citizens without high cost and in a simple way. We recommend that all state bodies should be harmonized (NBS, Ministries) in order to enable a facilitated use of digital signature (2F authentication) for contract signing (banks, insurance houses). In order to emphasize the reliability and easiness of digital signature usage and with the goal of expanding its use, citizens should be informed through educational campaigns about all the possibilities, rights and benefits from this type of channel.	2017		√	