

On The GC Grapevine

Issue 1: Technology Media Telecommunications



Hudson | Legal

Letter from the editors



Welcome to the first edition of a publication that has been in the minds of many for some time. A concept brought about by popular demand from leading lawyers yearning for sector-specific information from their peers and a forum where they can contribute some know-how themselves. Over the past year, we have often received requests from the in-house sector for a publication to share their experiences, triumphs, best practices and challenges, all within the General Counsel's world in Hungary.

Thus, as part of our commitment to listening to the market, we proudly launch our exclusive newsletter "On The GC Grapevine" dedicated to You, the General Counsel. "On the GC Grapevine" will come to you 5 times a year spanning sectors such as TMT, Energy, Pharmaceuticals, Banking & Finance and so on. In the midst of the excitement around the creation of "On the GC Grapevine" we hope to reach new milestones of information sharing paired with in-depth interviews with General Counsels who are paving the road of Hungary's in-house market.

At the same time, we wish this to be a truly interactive newsletter. We have asked top tier firms to contribute to this newsletter with news as well as legal analysis, and we will continue to do so. We wish to take this even further and, we would like to invite all our readers to make their voices heard via either one of our three interactive columns:

The Private Practice Strip will offer firms the chance to make brief announcements.



The Grapevine Pick will offer all our subscribers the opportunity to recommend who should be interviewed for the next edition. The column will present the nominated GCs and details will be offered on the voting system. The GC selected by popular vote will be included in the following edition.

(My) Word On The Grapevine will offer readers the opportunity to make their voices heard directly. Feedback, replies, comments and additional information that our readers wish to share with the rest of the community can be submitted to our editorial team and published.

We will offer more details into all of the above in this first edition but we are always happy to hear from our readers so, please, feel free to write to us at GCG@hudson.com or join the dedicated group [here](#) for more details.

For us, this has been a phenomenal few weeks: conducting the interviews, designing the lay out, and gathering all the information provided by you, the readers. We strive to make "On The GC Grapevine" the most sought-after legal specific publication in Hungary. Thank you for all the quality contributions and we look forward to bringing you further issues this year. Enjoy the read!

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On The GC Grapevine

dr. Miklós Orbán, Head of Regulatory and Government Affairs, CEE & Russia/CIS, BT



HL: Many PP lawyers tend to think that in-house lawyers drop their pens at 5pm and call it a day. In reality, the GC's life is certainly not like a Hawaiian vacation..

People are vain, especially lawyers. People at PP like to believe that the world would stop without their "very important contributions", and no-one works, except for them. Okay, I must admit: we, in-house guys, tend to see ourselves the same way sometimes. But jokes aside, this is a typical misconception lawyers at PP have about the in-house life. Being a GC or a legal director is no walk in the park. It is at least as stressful and challenging as PP.

HL: The GC position has many facets to it. What aspect do you now find the most challenging?

The manager. Reason: you are not prepared for this role. When you go to law school, you learn many things: rules, laws, cases, jurisprudence etc. Good schools can even teach you how to argue or write a good brief, but no-one can teach you how to become a good manager at a Fortune 500 company. One thing you learn in day one is that in such businesses there is no such thing as a purely legal issue. It

requires so many skills such as understanding people from different backgrounds, get your ideas across a huge and complex organization, managing people and projects, setting your priorities in line with the company's goals. It's like licking your elbow: seems easy, but it is in fact very hard.

HL: How did you become involved in the TMT sector?

It started right after law school when I joined Allen & Overy. It was the days of the Internet boom – sorry, bubble. At the time I saw it as an opportunity. On day one I saw that the office was full of real estate, corporate and finance experts, but there was no Internet lawyer. I knew I could become "yet another" corporate or finance lawyer and in 20-30 years become a partner, or I focus on TMT, which was a relatively

clients that I worked at the time got into a lot of trouble. People in the late 90s believed that everything will be done on the internet, Tesco's and bookstores will disappear, and the whole world would become one big Facebook. It didn't turn out that way and this hurt a lot of businesses betting on this idea.

The second was around 2003-2005, when the big players started understanding that being mobile was going to be the next big thing. Everything started being focused on being small, mobile, wireless and so on.

The third was the evolution from the web to web 2.0. With the move away from dial-up and other slow connections, pretty much anything could now be done online. Conference calls, part of the 'skype

"Good schools can even teach you how to argue or write a good brief, but no-one can teach you how to become a good manager"

young practice, and become a 'guru' in a matter of years.

At the same time, I chose a regulated industry because I knew this would be an industry where decisions heavily depend on the lawyer. If you work as the GC of Nike, a lot of the decisions can be made without you and you might not even be on the board. In a regulated industry however, a GC's input truly matters.

HL: Since you mentioned that you joined the industry at its relative young stage, you got the chance to grow as a lawyer along with it. What would you say were the landmarks of this development?

The internet bubble was of course a big one, with a lot of the

revolution' for example, revolutionized businesses with the internet no longer being something unreliable but something that can be exploited to great effect.

Now, we can see a stronger focus on internet protection and data privacy. I actually expect a considerable focus in the near future on VPNs, highly secured networks and even, perhaps closed/private networks, operating completely separate from the internet. This issue has two sides to it. Firstly, internet security is becoming a growing concern for big companies and I will be interested to follow how companies lobby for stronger regulations and enforcement to offer such protection. The flipside is to what purpose and how will these companies use the data they hold on

Morley Allen & Overy Iroda

Allen & Overy advises on BorsodChem acquisition

Allen & Overy consulted in the restructuring and subsequent acquisition of Hungarian chemicals company BorsodChem by the Chinese Wanhua Industrial Group (Wanhua). The transaction, which was valued at EUR 1.2 billion, involved Hungarian, English and Hong Kong corporate, banking and restructuring advice provided by Allen & Overy. The transaction took from June 2009 to January 2011 and created the world's third largest isocyanate manufacturer

Kajtár Takács Hegymegi-Barakonyi Baker & Mckenzie

Baker Mckenzie advises Bank of China in acquisition of BorsodChem

We advised Bank of China on the EUR 1 billion financing of the acquisition of BorsodChem Zrt by Wanhua, which also involved the refinancing of the existing senior debt of BorsodChem Zrt. This deal was the first of its kind in Hungary and the first time that such a significant amount of Chinese capital had been invested into a Central Eastern European country.

Horváth & Partners DLA Piper

DLA Piper in Hungary advising CIG Pannonia Life Insurance Plc. on landmark IPO

DLA Piper acted as exclusive legal adviser to CIG Pannonia Insurance (CIG), an independent Hungarian life insurance company on its landmark IPO on the Budapest Stock Exchange, "The Budapest Stock Exchange Transaction of 2010". The IPO is generally considered as a landmark transaction on the Hungarian capital market as it is the first insurance company IPO on the Budapest Stock Exchange since the collapse of the socialist regime at the end of the 1980s.

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“The trick is to understand that rules don’t change as fast as technology. In reality what you need to do is adapt new developments to the existing regulations.”

“Another aspect to consider is that the ‘black letter law’ is pretty much the same across the EU in telecoms. The main difference lies in enforcement.”

“And I mean ‘real’ experience: I don’t think that knowing a few buzzwords, like MVNO or triple-play, would qualify as telecoms experience.”

clients.

HL: When you talk about the TMT sector as an industry, what really gets your blood flowing...what has kept you in this industry for over 6 years?

The constant fast-paced changes are one of the biggest aspects. At the same time, the truly international side of my role keeps me engaged. Most international law firms are international only in names. Most operate under a form of a quasi-franchise form with perhaps a foreigner as a managing partner. My role on the other hand involves a meeting with a Hungarian decision-maker in the morning, a conference call with a Russian counterpart, a few issues coming in from the US when they wake up at 3 PM my time.

HL: The TMT sector as we well know is fast paced, ever changing with new innovation reaching us every day. What are the direct implications of this for a GC?

The trick is to understand that rules don’t change as fast as technology. In reality what you need to do is adapt new developments to the existing regulations. Also, because of the ever-growing complexity of the technologies we use and the legal implications they give rise to, I find myself having to spend a considerable amount of time actually explaining to regulators what we do and the precise nature of the services we offer.

HL: Have you ever contemplated going for a technical degree?

No, never. I am amused by new technologies and love the techy side of law and business, but would not become a tech guy. I am a people-person; it depresses

me if I spend too much time with my computer. If you are a geek, then you feel the same way with people.

HL: As your responsibility spans 24 countries, what market is most challenging?

Definitely Russia. If you grow up in Hungary, you can easily understand how business is done in Czech or Poland, and even if you are surprised by many things, you can get along in the Balkan. But Russia is like another planet. And before you say it: I do not only think of corruption here. Russia is peculiar from every perspective. They do not care about how things are done elsewhere. Strange from someone in CEE, London, Brussels or New York is no reference point in any discussion in Moscow.

HL: How would you say your role in regulatory is different here in the CEE region to what a counterpart does in Western Europe? What differentiates the industries between regions?

I think one differentiating factor is that these countries are smaller. In the UK or US there is always at least one regulatory expert in anything whereas, in the CEE, this does not always happen. On one hand, this means that I can bring my experts to make their life easier. On the other, trying to deal with government regulatory complex issues is sometimes difficult because it can happen that they do not understand the issue itself, not to mention the importance of it.

Another aspect to consider is that the ‘black letter law’ is pretty much the same across the EU in telecoms. The main difference lies in enforcement. For example, in the CEE, going against the local incumbent is much more difficult than in the west. The reason for this is that most of these firms here represent some of the largest tax

payers in the country. As a new entrant, it is much harder for us to pursue regulators to enforce rules on these strong companies. At the same time, enforcement itself is more difficult here due to a lack of capacity since in Hungary or Romania there are only a few dozen people working on enforcement in the field. I would say that, for a new entrant, enforcement will always represent a major difficulty in this industry.

HL: What do you look for when you chose a law firm to work with?

First and foremost, I want to see if they understand our company: what we do, our goals and what drives us. Then telecoms experience. And I mean “real” experience: I don’t think that knowing a few buzzwords, like MVNO or triple-play, would qualify as telecoms experience. Same with track records: acting for a telecoms operator in HR matters is hardly a telecoms experience in our world. And these were real examples. But I want to be fair with my colleagues at PP: many lawyers now work very hard on understanding their clients’ needs, and the quality of bids are getting better and better every year.

HL: What would be the number one advice for any lawyer considering going in-house?

Don’t forget what you’ve learned, but forget how you worked so far. Working in-house is not like a law firm within a company. No, you are part of a company: you work with them, smile and cry with them. Forget about disclaimers, “cover your back” paragraphs and long memos in legal language. You can also forget about PP privileges, like spacious offices, PAs and trainees. It is a different environment which requires a different attitude and work style. Best if you stop considering yourself as a lawyer: you are a director, manager or advisor with legal background.

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The Grapevine Pick

The Grapevine Pick

Each edition we will invite our readers to recommend a GC that they would enjoy learning more about. While we have chosen the GCs for the second issue (Energy), we would like to extend this invitation for our third edition which will cover pharmaceuticals. In the next issue, we will announce the pharmaceutical nominees and invite our readers to vote for the GC to be interviewed as the Grapevine Pick. To nominate someone, please write to us at GCG@hudson.com.

dr. Maria Dardai, General Counsel, UPC



HL: What would be the top characteristics a person needs to have to be a good GC?

I think it depends on the size of the department. For a relatively large team, **management skills** are crucial.

Being able to **think off your feet** is also important. For example, in a managerial meeting, I need to give answers almost on the spot on whether or not a certain risk is worth taking.

It is also important to be able to **move away from a purely legal perspective**. Most managers just don't want to receive answers along the lines of "based on the law, these are the following risks: a), b), c) etc.". They prefer business minded and company-focused answers.

Lastly, it pays to have a lot of **patience**. In my department, for example, there are a couple of small issues, but who handles them feels as the most important. I would sometimes find myself pondering on a big M&A transaction and they would be in front of me talking about an issue involving about 50.000 HUF. The owner of this issue is so keen to explain all the details of the issue even in situations where a good lawyer, and I like to believe I am one, can figure out the outcome from the first he/she hears of it. I do understand however that I need to be patient as this is very important for them.

HL: How do you communicate effectively with non-legal colleagues?

Well, most of my peers are managers who expect me to tailor complex legal issues in a simple, executive brief manner. They quite simply don't care for more and would hate if I tried to run them through all the articles involved from the law. It is of course difficult in cases when a very complex issue needs to be presented, but I believe this is one of the first things you learn to do when you start working as an in-house lawyer.

HL: What do you see as the main trends influencing your work?

We are facing a completely new law in the Hungarian context, especially as a result of the European requirements, which will affect every small aspect of the operations. Add to that the constant new technology developments and you have a very dynamic and exciting industry. On the other hand, this **constant evolution** poses its challenges. In my line of work, nothing is obvious as everything I learn one second is questioned in the next and I find myself constantly asking whether what I am trying to implement is still valid and/or relevant. We do try to be proactive in this sense and always make sure that we follow what is happening in the regulating bodies to be able to adapt as swiftly as possible.

The ever dense minefield of **data privacy and copyrights issues** is also one aspect that I am sure will impact my work more and more. Lastly, **convergence** needs to be taken into account. The IT sector, media sector and telecommunications and their specific regulations; all need to be considered as a whole as the technologies involved become more and more integrated. Add to this the business/marketing considerations and you end up with an equation with a lot of variables.

HL: What about the EU Regulations?

DLA Piper in Hungary advising GLL on portfolio financing

DLA Piper advising a syndicate of banks, led by Deutsche Pfandbriefbank AG in relation to the Hungarian aspects of the refinancing of a CEE real estate portfolio consisting of a total number of 17 office buildings in Poland, Czech Republic, Hungary and Romania. Our advice included the pursuit of a corporate and real estate limited due diligence and the bankability review of the material lease agreements.

Gide Loyrette Nouel - D'Ornano Iroda

Lego project at Nyíregyháza

The Danish toy maker LEGO has begun investigating the possibility of developing a new production site in Nyíregyháza. Gide Loyrette Nouel acts as general legal adviser to the LEGO Group in Hungary. Beside various projects related matters, **general corporate, dispute resolution, litigation and employment law** related counselling, GLN is proud to have been instructed on this landmark transaction in Eastern-Hungary.

Andrékó Kinstellar

Kinstellar advised Türk Telekomünikasyon A.S.

The largest telecoms acquisition of 2010 Kinstellar advised Türk Telekomünikasyon A.Ş. (in Hungary, Romania, Czech Republic, Slovakia and Serbia) on the EUR 221 million acquisition of the wholesale business of Invitel (including the purchase of Invitel Kft.) to get access to 27 thousand km of optical fiber network in 16 countries in Central and Southeast Europe. The deal represents the largest acquisition of wholesale telecoms facility in 2010 in Europe, and by far the largest TMT deal of 2010 in Hungary (closed in October 2010).

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“this constant evolution poses its challenges. In my line of work, nothing is obvious as everything I learn one second is questioned in the next”

“Honestly, when I see ten pages of a legal review, I don’t even feel like reading it. My advice is keep it accurate and to the point. I do not need to see extracts from the text of the law.”

The telecom industry is a heavily regulated industry. All regulations must be in line with the EU law. The new regulatory framework for our industry was accepted in December, 2009. Hungary is now facing to the implementation phases of this NRF.

Therefore by now, EU trends are felt on a daily basis and it is clear that we can no longer purely think about Hungary but look at the EU regulators even before the norms start being applied here. We are lucky because we have excellent colleagues all over Europe within LGI Group. We can always seek out advice from them when we have some problem.

Overall, I feel the EU legislations have had a positive influence on the industry. So far they have been stable requirements and we almost always feel that they are something desirable to investigate and adopt.

HL: How do you stay up to date – since you mention the fast pace?

I actually have excellent colleagues and we regularly have a sit-down where I am briefed on the most recent developments and trends on technical and business side. I learn a lot from them. I don’t think I could be nearly as effective in my job without a good team.

HL: What do you usually look for when choosing what private practice firm to work with?

Considering our relatively large team, my general approach is not to outsource unless we are looking at a very large deal, especially for an M&A transaction.

HL: And if you make the decision to take that step and outsource?

I always discuss using any external sources with my superiors,

especially because we have a strong in-house department. We do have preferred law firms but on a case by case basis I might need a specific private practice firm. In making my choice I only really care about the expertise. I don’t look at the international brand especially since by now I know the market and have a good sense of who is strong in what practice areas.

HL: What would you recommend to any PP not to do when making a proposal to a GC?

Honestly, when I see ten pages of a legal review, I don’t even feel like reading it. My advice is keep it accurate and to the point. I do not need to see extracts from the text of the law. My peers expect me to give them a legal analysis this way, and I’d hope a law firm would do the same for me.

HL: What advice would you give to any PP lawyer considering going in-house?

First of all understand that you are part of a team. This does not only mean a team of lawyers but also of marketing, engineering, and human resources professionals. If you enjoy sitting by yourself in front of a computer and working a legal analysis you are better off in private practice. If you want to move in-house you need to understand that your internal clients will be people who, unlike you, do not have a legal background and you need to adjust your professional message accordingly. This is the real job of a successful in-house counsel.

Kinstellar advise on FN Cable acquisition

The second largest telecoms acquisition of 2010 Kinstellar advised FN Cable Holdings B.V. (in Hungary) on the EUR 46 million disposal of its Hungarian subsidiaries (active under the FiberNet brand in the provision of cable television, internet and telephonic services) to Magyar Telecom B.V. (an affiliate of Invitel). The deal represents the second largest TMT deal of 2010 in Hungary (closed in February 2011).

Réciczka White & Case

Falcon Group’s €574 million auction sale of Ěeské Radiokomunikace, a.s.

In the second-largest exit of 2010 in the CEE region, we advised Falcon Group, a consortium of investors 75% controlled by funds managed or advised by Mid Europa Partners, in its auction sale of 100% of Ěeské Radiokomunikace, a.s. (“CRA”) to three funds managed by Macquarie for total consideration of approximately €574 million.

Invitel Holdings A/S’ acquisition of FiberNet Zrt. and asset sale to UPC

In one of the most complex transactions undertaken by our Budapest office, we represented Invitel Holdings A/S, the holding company for one of Hungary’s leading telecommunications service providers, in the bolt-on acquisition of Hungarian cable company FiberNet Zrt., and Invitel’s simultaneous sale of 35% of FiberNet’s assets to UPC. We also advised on all competition, debt restructuring, regulatory and tax matters.

On The GC Grapevine

Film Industry To Take A Hit Due To Tax Law

by dr. Mónika Horváth - DLA Piper



Hungarian Film Tax Relief System

The Hungarian tax relief system was introduced by the Motion Pictures Act in 2004. In 2008, as a result of a revision by the EU, certain changes (such as application of a cultural test) have been introduced whereby the main concept remained unchanged.

With the help of the tax benefit system, the refunds (supports) available are 20% of the film production costs incurred in Hungary and partly outside of Hungary.

The source for the refunds is the profit before taxation of Hungarian enterprises, which intend to reduce their corporate tax payable. Experience of the last years has proved that a sufficient amount of private resources can be

"Some of the film sponsors might turn to sport support instead which might also decrease the funds available for film support"

mobilized in order to support film productions through the tax benefit system.

Why could a company be interested in investing in the film industry? Such company may reduce its (1) corporate tax base and (2) corporate tax payable by the amount of the support, thereby achieving significant tax savings.

Foreign producers can benefit from the indirect state subsidy if producing films with the involvement of Hungarian production companies. The tax rebate has attracted major foreign producers including Hollywood studios (e.g. Warner Bros recently shot "The Rite" in Hungary with Sir Anthony Hopkins, Universal Studios is actually shooting "47 Ronin" with Keanu Reeves).

What are the common contractual structures?

Foreign productions can qualify their productions for tax relief if contracting through any of the following structures:

1) Work for hire structure

Hungarian producer provides services under a Production Services Agreement.

2) Co-production

The parties shall enter into a bipartite or multipartite co-production agreement with the participation of a Hungarian producer. Hungary has entered into film co-production treaties with France, Germany, Italy, Canada and partly to the European Convention on Cinematographic Co-Production. Even if there is no

co-production treaty with the country of origin of the foreign producer the co-production structure can qualify for Hungarian tax rebate.

3) Sale of copyright structure

The Hungarian producer produces the film or certain scenes of it and assigns or licenses it for the foreign producer.

Changes on the level of controlling bodies

Until recently the Hungarian Film Fund (MMKA) was the body to decide upon direct state subsidies for film productions (only for Hungarian productions with no foreign participation) and manage state owned film assets. Due to huge amount of losses accrued in the last couple of years the Government has created a new position

Faludi Wolf Theiss

UniCredit Bank – Waberer's finance, advised by Faludi Wolf Theiss

Faludi Wolf Theiss advised a bank consortium consisting of five banks, including UniCredit Bank acting as an arranger, agent and lender and Volksbank, Citibank, ING Bank and K&H Bank acting as lenders, in relation to the EUR 46,000,000 financing of the operation of Waberer's Holding, the market-leading logistics service provider in Hungary and Central and Eastern Europe.

of a film industry governor to take over the managing and controlling functions of the MMKA together with the right to share direct state funds. Mr. Andrew Vajna has been appointed as film industry governor in January 2011. According to the latest news the MMKA will be terminated without legal successor and investigation of the financial management shall be commenced.

Future tendencies

Crisis taxes introduced in 2010 in the energy, telecommunication, financial and retail sectors have limited the profit of potential big taxpayers and thus the potential funds available for film support.

A new system of sport support in a structure very similar to that of the film tax relief is under development. According to the initial idea 5 team sports football, basketball, handball, water polo and ice hockey will be entitled to indirect state subsidy. The proposed law is currently under investigation by the EU and subject to certain changes expected to receive green light early summer.

Some of the film sponsors might turn to sport support instead which might also decrease the funds available for film support.

Recent trends

Since 2004 the Hungarian film industry sector has developed materially: New modern studios have been built and opened (Stern in 2006, Korda in 2007, Astra in 2008 and Raleigh studio in 2010).

Several Hungarian production companies, mostly independent but some belonging to major studios, offer high level film production services. Hungarian film laboratories provide laboratory services on international standards.

The source of this development is the indirect state subsidy available for film production. In the last 3 years the total amount of indirect film subsidy paid out has been in the range of HUF 45-48 billion. I.e. the total cost of production spent through Hungarian production entities were about HUF 180-190 billion in each of the last 3 years. Interestingly the participation of Hungarian only film productions in the total cost of production has decreased from 42,7% to 16,2% during this period, which means that foreign interest has developed and keeps the film industry busy.

On The GC Grapevine

“Net Neutrality” in Hungary

by dr. Títusz Puszkár - Simándi Bird & Bird



“It revealed that there is a near consensus on the importance of net neutrality”

The debates over net neutrality have started years ago in the United States but the issue has gained more traction recently as one of the hot topics of the global telecommunications sector.

General introduction

Although there is no specific definition, the term “net neutrality” (which is also known as “internet neutrality” or “network neutrality”) covers the idea of creating a neutral or “equal” internet. Specifically, internet traffics cannot be influenced or prioritised by either governments or Internet Service Providers (“ISPs”) with the goal of protecting consumer interests.

The attitude of the European Commission

On the 30th of June, 2010 the Commission launched a public consultation on the key questions arising from the issue (such as internet traffic management practices, prioritising one kind of internet traffic over another, transparency, quality of service and competition matters). On the 9th of November, 2010 the Commission published its report on the results of this public consultation. It revealed that there is a near consensus on the importance of net neutrality among the stakeholders, who expect additional guidance in the near future from the legislative bodies of the EU. As a result of these steps, on the 19th of April, 2011 the Commission, the European Parliament and the Council published a communication on “The open Internet and net neutrality in Europe”. Although the Communication does not include any binding rules (it summarises only the previous findings of the Commission), the name of the “authors” shows that the EU takes this issue seriously.

Net neutrality in the EU

Although net neutrality is neither regulated nor required expressly by any EU legislative act, certain elements thereof (as transparency and minimum service quality) may be found in the amended Universal Service Directive (Directive No. 2002/22 of the European Parliament and of the Council, “USD”).

Article 21 of the USD determines the transparency, while Article 22 of the USD determines the service

quality requirements the ISPs have to comply with. The purpose of these provisions is to ensure the protection of the end-users/consumers. Generally, the ISPs have to publish the minimum service quality they guarantee.

Directive 2009/136 amending the USD inserted new provisions into the USD affecting the abovementioned Articles as well. The amended provisions, inter alia, oblige the Member States to ensure that national regulatory

“there is nothing to prevent ISPs from prioritizing traffic as long as the published minimum bandwidth figures[...] are complied with”

authorities have the power to determine minimum service quality requirements for undertakings providing public communications services, however, these requirements must previously be examined by the Commission. The implementation deadline for the Member States is the 25th of May, 2011.

Net neutrality in Hungary

In Hungary the legislation regarding electronic communication services including ISPs is quite complex as Act C of 2003 on Electronic Communications and Government Decree no. 229/2008 on the obligations regarding the quality of the electronic communications services in connection with consumer protection (“Decree”) must be interpreted together in

service quality related issues. The USD has already been implemented, while the implementation of Directive 2009/136 is currently in progress, and should be implemented in a couple of weeks.

Annex 1 of the Decree provides detailed rules on the obligations relating to service quality. Among general obligations, which are applicable to all electronic communications services, special rules apply to Internet service. According to the Decree, ISPs have to specify the minimum up- and download speed (kbit/s), which they undertake to provide to their customers in 80 % of the cases. Complying with these obligations is to be verified, from time to time, by the National Media and Communications Authority. The ISPs are obliged to publish these thresholds in their General Terms and Conditions and separately on their website. From the perspective of net neutrality it means that ISPs are obliged to determine the minimum guaranteed upload and download bandwidth in relation to all subscription packages and tiers, but there is no minimum bandwidth provided by law. Therefore, according to the current regulation there is nothing to prevent ISPs from prioritising traffic as long as the published minimum bandwidth figures – determined and undertaken by the ISP itself – are complied with. The implementation of Directive 2009/136 will most probably slightly change the current status, however, traffic prioritising will likely still remain possible.

We would like to thank those who contributed to this newsletter:

- dr. Miklós Orbán
- dr. Maria Dardai
- dr. Mónika Horváth
- dr. Titusz Puskár

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