

## [CZ] UPC fined for the neglect of its duty to inform its customers

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The City Court of Prague dismissed the action of the company UPC against a decision of the Chairman of the Council of the Czech Telecommunication Office (CTU). The Chairman of the CTU decided to impose a fine on UPC for the neglect of its duty to inform its customers about new prices pursuant to section 63, paragraph 6 of the Electronic Communications Act.

In May 2012, UPC increased the price for the use of its modems, started charging for the use of set-top-boxes, and increased the monthly fee for providing internet services, without informing their customers of the changes. Consequently denying the customers their right to terminate the contract without the obligation to pay a penalty fee. UPC changed its product Fiber Power 10 to the product Fiber Power 30 which came — along with an increase in the connection speed — with an increase in the monthly fee. The price went from 445 CZK to 499 CZK. The monthly price for the product Fiber Power 120 rose from 749 CZK to 799 CZK.

CTU imposed a fine of one million CZK (EUR 37 000) on UPC. The company appealed to the City Court against the fine and the amount of the fine, defending its having neglected to inform the customers by arguing that customers would suffer no disadvantage if they would get higher bandwidth for that price.

According to the judgment, this argument does not hold. The Court dismissed the action and stated that UPC could not assume that all subscribers of its internet services would prefer a faster speed connection over a lower price. It concluded that these changed contractual conditions were essential requirements of the contract (in particular, the price increase). In such a case of changed contractual conditions, UPC was obliged to inform its customers of the changes and their right to terminate the contract without incurring a penalty fee, at least one month before introducing the changes.

According to the court, the amount of the fine was also reasonable. For the perpetration of the administrative offense a fine in the amount of up to ten million CZK can be imposed. When determining the amount of the fine, CTU had to take into account the seriousness of the offense, the duration of the infringement, and the number of subscribers affected by the unilateral contractual changes. CTU imposed a fine on UPC amounting to one million CZK, and therefore acted within the range of the law.

***Milionová pokuta UPC za nesplnění informační povinnosti platí***

[http://www.ctu.cz/cs/download/monitorovaci\\_zpravy/monitorovaci\\_zprava\\_07-2015\\_cervenec.pdf](http://www.ctu.cz/cs/download/monitorovaci_zpravy/monitorovaci_zprava_07-2015_cervenec.pdf)

