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Broadband Acces to the Internet in the context of regulation

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Presentation scheme

- Previous regulatory activity of URTiP.
- Regulatory approach in the scope of applying remedies.
- Aspects of establishing prices for access.
- Planned activity according to the Telecommunications Act of 16th July 2004.
- Current situation on the market and development perspectives.

Previous regulatory activity of URTiP

I. Reference offers :

1. Leased line offer

- August 2005 – President of URTiP ex officio imposed RLLO on TP S.A. (The decision was given a clause of immediate execution),

2. Local-loop unbundling offer

- February 2005 – President of URTiP ex officio imposed RUO on TP S.A. for full unbundled access and shared access to the loop (The decision was given a clause of immediate execution),
- August 2005 – President of URTiP imposed revision of RUO for full unbundled access and shared access
- For bitstream access decision is expected nearly in the future. End of work is approaching.

II. Reservation of frequencies in the 3,6 – 3,8 GHz band, designed for networks of radio broadband access to the Internet.

1. Reservation for the whole territory :

- As a result of first tender between 22nd February and 29th July 2004 – procedure has shown 3 undertakings: E-internets Sp. z o.o. – 4 channels, PTC Sp. z o.o. – 4 channels , NASK – 2 channels,
- As a result of second tender between 27th April and 25th July 2005 reservation gained: Netia Globe S.A. – 2 channels, Netia Świat S.A. – 2 channels, NASK 2 channels.

2. Remaining 12 radio channels have been distributed – 2 channels for each tender area similar to Polish administrative units - Powiat. Since 21st September 2005 Regional Branches of URTiP lead 317 local tenders. Since 17th November there is a judgement on 1201 proposals.

Regulatory approach in scope of selecting and applying remedies

Promoting infrastructure competition by applying encouragement to invest in the context of access regulation:

1. Where there are technical possibilities and for economical efficiency in reasonable period of time by deciding:
- If and on which level access has to be guaranteed,
- About fees for access which have to motivate to invest both incumbent and alternative operators,

2. Where infrastructure competition is not developed by:
- Counteraction against delivery refusal, degradation of services quality,
- Establishing prices to motivate incumbent to maintain and improve his network while assuring effective entry level on retail market,
- Balancing between rights of infrastructure owner for exploitation for his benefits and rights of alternative operators to access to infrastructure resources to provide competitive services.

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Regulatory approach in scope of selecting and applying remedies

climbing investment ladder as a way of shifting from services competition to infrastructure competition (basis of infrastructure)

Enforcing by NRA investment encouragements using:

1. Appropriate selection of regulatory means as halfway steps for promoting infrastructure competition.
2. Dynamic structure of prices (stimulating encouragements)
3. Dynamic structure of market (drifting encouragements)

Podejście regulacyjne w zakresie doboru i stosowania środków zaradczych

Advantages of infrastructure based competition

1. Pressure to minimize costs which are sensitive within the confines of whole chain of value,
2. Bigger innovations, which will create decreasing costs dynamic,
3. Consumers will get differentiated offer that corresponds with their individual needs,
4. There is general conviction, that big potential detriment may occure when replication is possible but is not promoted.

Aspects of establishing prices for access

Regulatory activity, including establishing prices, should show, that applying remedies is only temporary filling of „gaps”, so as new undertakings could easier invest, but they sholuldn’t base their longterm cooperation models only on the remedies.

Aspekty ustalania cen za dostęp

1. Adequate design of prices of different options of access due to preserve proper relation to other access prices and relation to the retail prices that are prevailing on the market .
2. Too low access prices:
- Lack of motivation among new entrants to develop their own infrastructure,
- Lack of motivation for dominant operator to maintain and upgrade his network,
- There is a risk that ineffective firms can enter to the market
- Lack of incentives to provide innovations.
3. Too high access prices:
- Creates barrier of entry ,
- Danger of ineffective investments of operators functioning on the market.
- Overstated dominant operator’s profit.

Aspekty ustalania cen za dostęp

Stages of shifting from service based competition to infrastructure based competition:

1. Creation, in the shortest possible time frame, competition mechanisms through the imposition of obligation, on the operator that control infrastructure, to grant access to that infrastructure for alternative service providers that would like to offer competitive services.
2. Development of service based competition – developing of mechanisms of market rivalry.
3. When rivalry will become too aggressive and will be promoted by the Regulator, undertakings that own infrastructure could be deprived of sources necessary for investment and innovations.
4. Then pressure on service based competition should be limited by the necessity to promote infrastructure based competition. In this circumstances an investment effort of undertaking, aimed on developing his own infrastructure, should be compensated by the competitions advantage over those undertakings that didn't make any investments.

It is contrary to the idea of infrastructure based competition, when regulatory model promotes service based competition to that extend that make possible situation that new entrants can use infrastructure built by another undertaking, below costs.

Problemy przy ustalania cen za dostęp.

I. Limitation of the access to the significant information in the light of setting prices :

1. Lack of the TP cost model
2. TP doesn't have rebalanced retail price for the subscription with costs
3. Lack of reliable market analysis, which will be just made on the ground of new regulations in the light of relevant markets analysis.
4. Lack of cooperation with the operators during the proceeding in scope of stating real and balanced costs (activity costs of each group of operators, models of making cost-effective retail offers based on LLU, in it Triple Play, made and planned investments).
5. LLU as a new service, which hasn't been provided so far in Poland.
6. Context of imposing WLR obligation and its effect on LLU.

II. <u>In the result of proceedings about 64 amendments were done in reference offer ex officio in favoure of alternative operators in relation to TP offer proposals, for example:</u>

- imposition of obligation to grant shared access to subloop.
- access to the not used parts of main and distributive lines was unbundled
- TP was obliged to give general information for free also before making a contract,
- Number of exclusions and limitations in local loop unbundling offer stated by TP was deleted
- The prices were lowered in compare to the TP proposal

Działania na tle ustawy z 16 lipca 2004 r. Prawo telekomunikacyjne.

Regulation based on the basic economic analysis.

1. Three levels of regulation :

- market definition
- market analysis
- remedies

2. Periodicity of the process (every two years).

3. Rules of imposing regulation obligations.

a) Proportionality

b) Directions of regulatory activities on the markets, where the infrastructure competition is possible.

c) Directions of regulation activities on the markets, where the replication of infrastructure (understanding as a infrastructure able to supply same services) is possible.

d) Remedies should be motivating.

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Działania na tle ustawy z dnia 16 lipca 2004r. Prawo telekomunikacyjne.

- on the 25 October 2004 r. the Ordinance of Minister of Infrastructure regarding the relevant markets entered into force.
- on the 20 December 2004 r. before the legislation term (30 days after the ordinance) the President of URTiP started **18** proceedings regarding the relevant markets,specified in ordinance.
- **3 700** subjects were included into the search– informative form.
- On the schedule placed on URTiP internet site, in 2006 analysis will be completed and decisions will be issued on the market of broadband access service, including broadband data transmission and LLU access service and subloop (together with shared access) realized via cooper wireless due to provision of broadband and voice services
- Revision of Reference Unbundling Offer

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Current situation on the market and development perspective.

1. The value for joint markets of data tranmision, leased line and internet service providers amounted 3 mld PLN, what gives an increase for more than 10 % in regard to previous year,
2. Market share in broadband access to the Internet amounted more than 60%. Compared withn the year 2003 market for broadband access increased for 59%,
3. The value of polish data transmision market is estimated as 977 mln PLN or 1/3 of the total value of joint markets of data tranmision, leased line and internet service providers.

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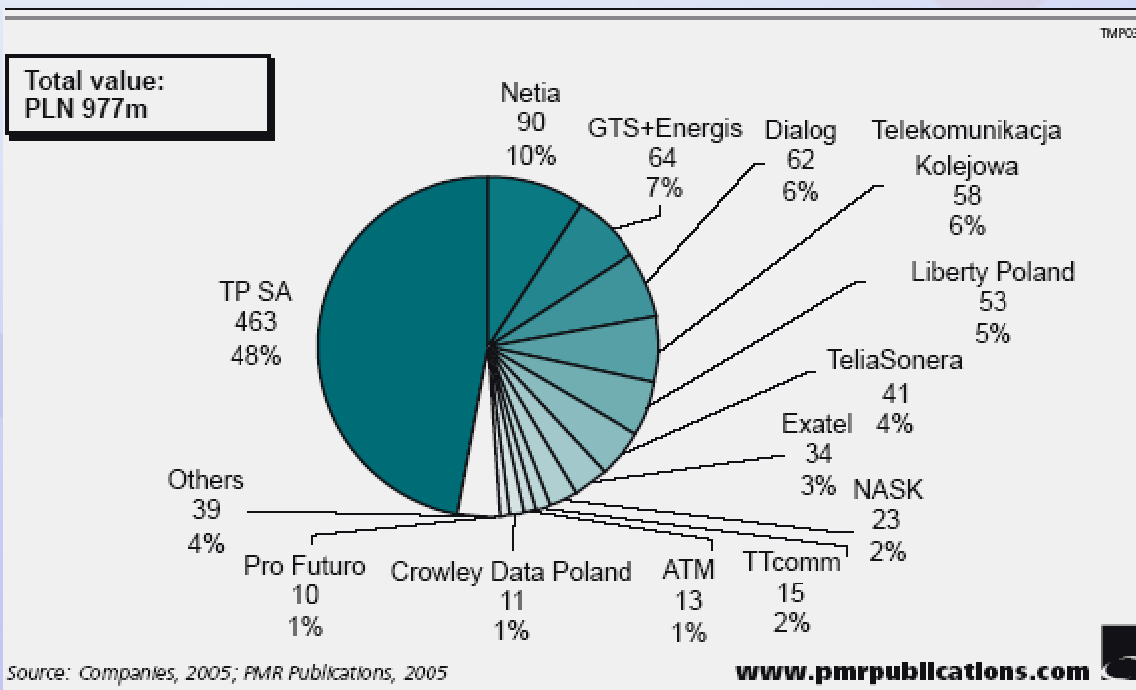
Obecna sytuacja na rynku i perspektywy rozwoju.

Market share of main market players in the data transmition market in 2004 – on the basis of incomes (mln PLN)



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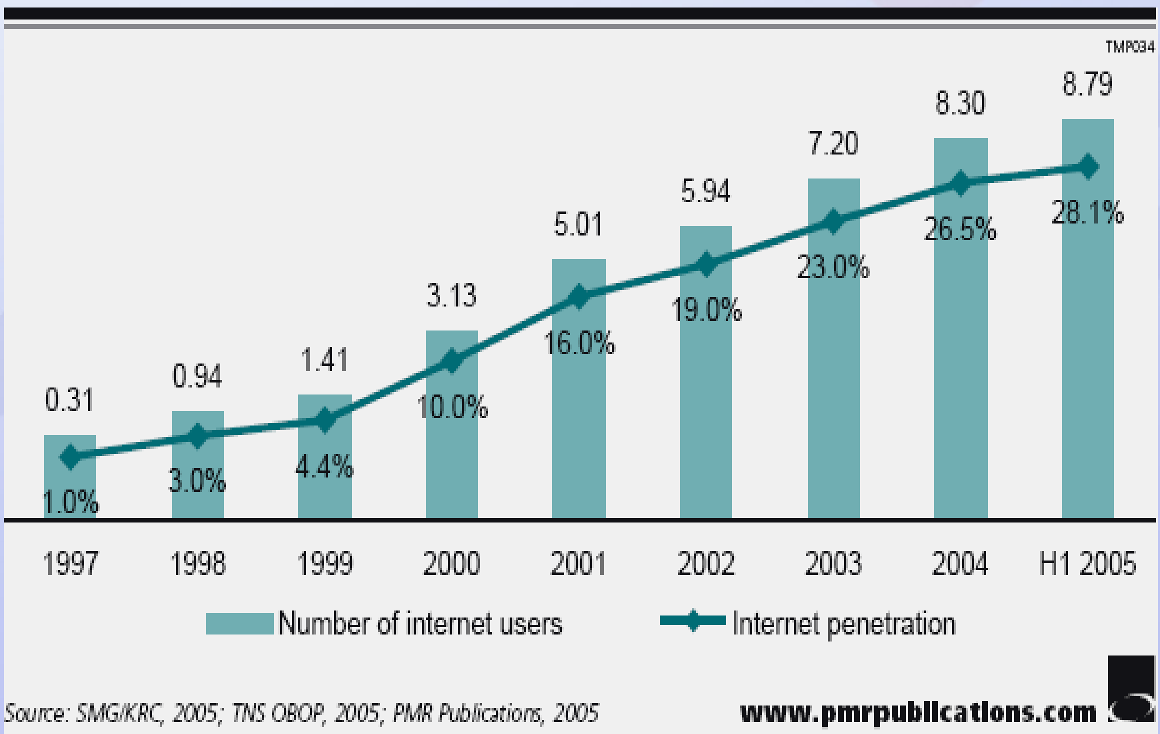
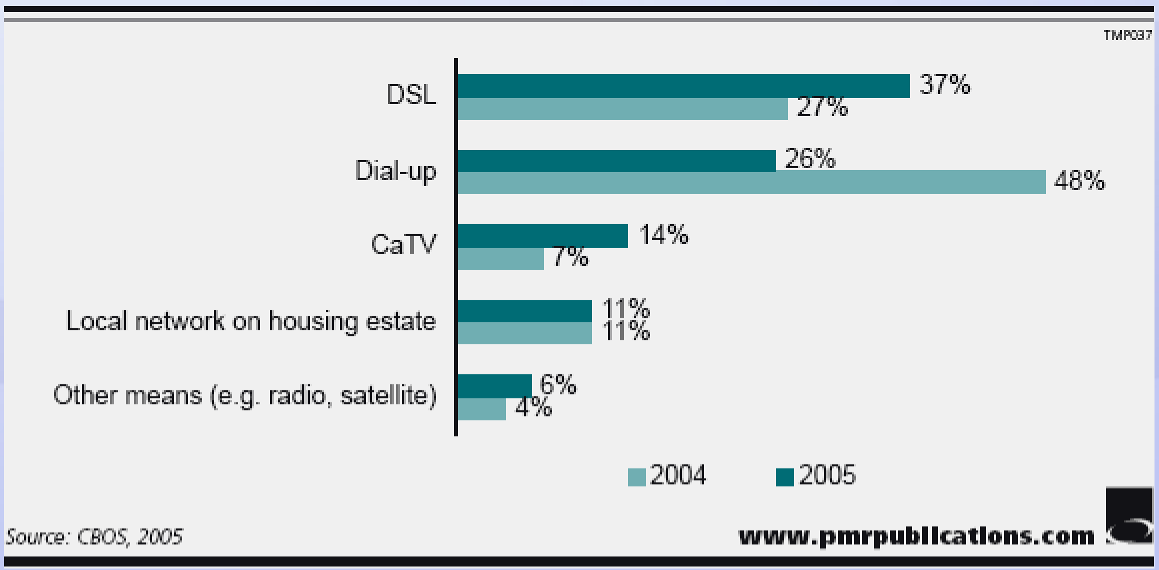
Present situation and development perspectives

Number of Internet users and Internet services penetration rate in Poland since 1997 to 1st half of 2005 (m users and %)



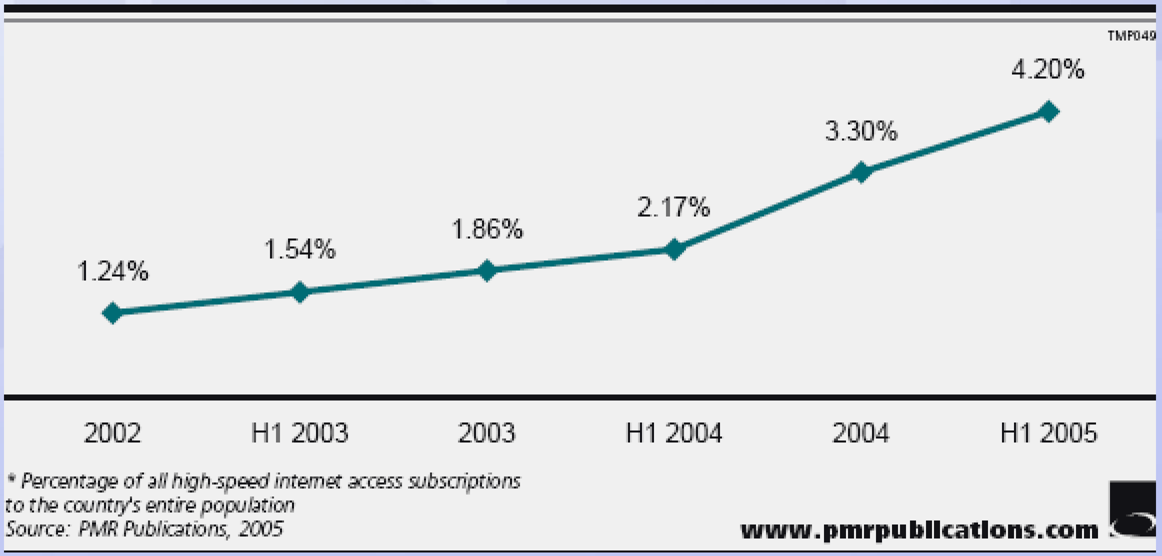
Obecna sytuacja na rynku i perspektywy rozwoju.

Types of Internet access in the years 2004-2005 chosen by users, who are using Internet at home.



Current situation on the market and development perspective.

Penetration of broadband access to the Internet in Poland between 2002 and the first quarter of 2005 (%)



Current situation on the market and development perspective.

The rates that sum up access to the Internet market in Poland are:

- Increase in number of daily Internet users.
- The growing percentage of Internet users, who have the computer at home;
- High increase of popularity of broadband access to the Internet and sudden decrease of dial-up form.
- Significant decrease of prices for access to the Internet in Poland.

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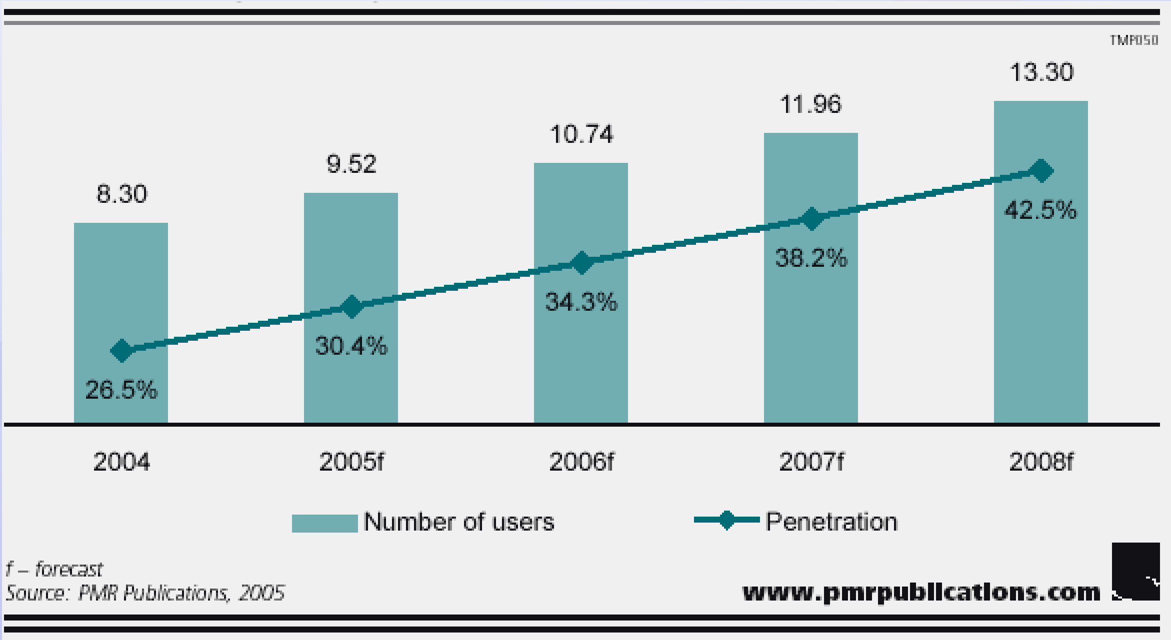
Current situation on the market and development perspective.

Forecast of the number of Internet users and their penetration in the years 2004-2008, in millions and %.



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Thank You for Your Attention.

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