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Summary of doctoral dissertation "Telecommunications access" written under the supervision
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The subject of the dissertation is the issue of telecommunications access. The dissertation presents telecommunications access issues upon liberalization of the telecommunications market, and amendments to the telecommunications access laws. What was of particular importance in the research work on access issues are amendments to the access regulations following the implementation of EU regulations. The doctoral dissertation assumes that the institution of telecommunications access in the Polish telecommunications law is a necessary juridical instrument ensuring development of competition in the telecommunications market. In order to verify this assumption, the research work analysed in particular the following issues:

- whether the provisions of EU telecommunications access directives have been duly implemented and how the new provisions affect the regulation of the telecommunications market in terms of access;
- how the implementation of the EU directives influenced the development of regulatory policy in Poland;
- whether the existing telecommunications access legislation is sufficient to ensure competitiveness of the telecommunications market;
- whether the President of Office of Electronic Communication (UKE) is equipped with the required regulatory tools in terms of telecommunications access;
- whether the institution of telecommunications access is in practice an effective regulatory tool;

Chapter I is devoted to the analysis of the telecommunications market in Poland since the early 1990's. The chapter presents the beginnings of the liberalization of the telecommunications market and the circumstances in which the regulations in the field of telecommunications law were developed on the European Community and national levels. Chapter I also presents the most important steps in creating a regulated market: the

establishment of the Ministry of Communications, the establishment of the Telecommunications Regulatory Authority as a regulator of the market and Poland's accession to the European Union.

In Chapter II focuses on the issues of regulation of the telecommunications market, in particular an analysis of the European Community provisions in the field of telecommunications access and the implementation of these regulations into Polish law. The rest of the chapter is devoted to the presentation of the regulatory authorities, their participation in the conduct of regulatory policy and the importance of the institution of a dominant position in the telecommunications market.

The definition of telecommunications access is analysed in Chapter III of the doctoral dissertation. The concept of telecommunications access was regulated in 2002 in Article 2 point a of directive 2002/19/EC. This definition was the model on which the Polish legislator relied in defining the concept of access. The right to telecommunications access stands for the possibility for eligible entities to use the equipment, property rights belonging to another entity, or services provided by another entity, being in this situation, an obliged entity. The concept of access defined in the Telecommunications Act contains open catalogue of forms of access. Provisions which provide for telecommunications access limit the freedom of telecommunications undertakings to use their property and, therefore, in a sense, enter the range associated with the protection of property.

Chapter III discusses telecommunications access, both from the point of the prospective beneficiary, as well as from the point of view of the obliged entity, and also as a regulatory obligation. This chapter also presents the responsibilities of telecommunications undertakings in terms of access, which vary for different entities operating in the telecommunications market. Their scope depends mainly on the type of activity, but also on the existing telecommunications infrastructure, buildings, spectrum and software systems. The chapter discusses the obligations of all operators and the particular obligations of operators with significant market power.

Chapter IV deals with the procedure for the imposition an obligation on telecommunications access. This chapter describes all steps of the procedure, the procedure for approval of detailed regulatory conditions, the powers of the President of UKE in terms of procedure and the procedure for issuing a decision on the approval of detailed regulatory conditions. The chapter analyses the powers held by the President of UKE to impose other obligations in the field of telecommunications access on an operator with significant market power.

Chapter V describes the procedure for issuing administrative decisions on telecommunications access. This chapter discusses the various stages of the administrative procedure which may be initiated by the President of UKE at the request of a telecommunications provider. An important part of this chapter is devoted to the analysis of the procedures and terms of conducting negotiations between telecommunications undertakings, aiming at concluding an agreement on access and the reasons for initiating administrative proceedings if the parties fail to reach an agreement during the negotiations. The chapter explains the question of the appeal procedure from the decision on access. The decision on access issued by the President of UKE is the legal basis to make legal action in the form of the establishment of access. The decision on access replaces the agreement between telecommunications undertakings within the scope of the decision.

The legal character and object of the agreement on access is analysed in chapter VI of the doctoral dissertation. The agreement on access specifies the conditions of telecommunications access and associated conditions for cooperation between telecommunication companies, where the parties agree to their mutual benefit in the field of telecommunications access. The agreement, similarly to the decision on access, is the legal basis of establishment of telecommunication access. The chapter describes the circumstances in which the provisions of the agreement may be amended by the President of UKE.

Chapter VII discusses the framework offer for telecommunication access, in particular the procedures and conditions for the imposition of a regulatory obligation in the form of presentation of framework offer. The subject of the analysis is to demonstrate the validity of framework offer and the issue of ensuring access to the local loop.

Chapter VIII is devoted to the functional separation of the operator with significant market power, which is a regulatory measure designed to achieve non-discrimination and increased competition in the market. Functional separation relates to the conduct of activities related to the provision of wholesale telecommunications access through separate structures of the entrepreneur, by an independent organizational unit or by several separate units. The provisions concerning functional separation were introduced to the Telecommunications Law in the amendment of November 2012, as an implementation of provisions of the Access Directive. The chapter presents examples of the application of functional separation in other European countries. Regulatory measure in the form of functional separation has not yet been applied in Poland. Chapter VIII contains an analysis of the practical application of provisions of the of the EU directives in the field of functional separation implemented to the Polish law,

having regard to the methods used so far in the field of market regulation by the President of UKE.

The last chapter of the doctoral dissertation focuses on the regulatory accounting and cost calculation obligations. This chapter describes the circumstances where such obligations may be imposed by the President of UKE on the operator with significant market power and the rules of regulatory accounting and cost calculation. The second part of the chapter deals with the charges for telecommunications access, in particular the rules for determining the amount of fees, procedures for imposing charges on telecommunications undertakings and procedures in case of incorrect determination of charges.

The analysis showed that both the regulatory actions and the correct implementation of EU legislation in the field of telecommunications access, in particular aimed at ensuring proper competition in the telecommunications markets, allowed for eliminating the conditions impeding efficient competition on the defined markets in Poland. Therefore, the institution of telecommunications access in the Polish telecommunications law has proven to be a necessary and effective juridical instrument to ensure the development and competition on the Polish telecommunications market.