

European Commission
E-mail: info-b1ext@ec.europa.eu

Vienna, November 19th 2008

Subject: PUBLIC CONSULTATION on Next Generation Access Networks (NGA)

Dear Ladies and Gentlemen,

ISPA, the Austrian Association of Internet Service Providers, appreciates the invitation to comment the European Commission draft recommendation on regulated access to Next Generation Access Networks (NGA).

We support the development and creation of an EC recommendation on regulated access (NGA) to be issued as soon as possible.

Treating the access to ducts and dark fibre is a point of enormous importance in the rolling out of Next Generation Networks and we strongly support the inclusion of these topics into regulation. ISPA fundamentally agrees with the aims and the way the commission is eager to solve the problems. In addition, we are pleased to formulate the following general remarks.

1. Aims of the recommendation

- a) Give guidance to NRAs on the treatment of regulated access to NGAs
- b) Prevent fragmentation of the internal market
- c) Incentivise investment in NGAs
- d) Foster competition in the new environment

These aims definitely build a good starting point for the pertinence of the recommendation and cover a broad variety of ideas. Nevertheless we would encourage setting up a fifth aim: The development of an effective open network. The internet is set up as an open platform and this is the reason for its wide availability and growth. Therefore NRAs should rather promote an efficient investment in infrastructure to support the idea of an effective open network rather than an infrastructure based competition at any cost. Providing a range of access options would be the best support for efficient and sustainable investment. Remedies like access to duct and to fibre (like open fibre) are the main options to give operators the chance of a fair return for their investments. The topic of an open network is strongly connected with the requirement of open architectures for vDSL and FTTx. Only the

usage of open architectures guarantees a fair use of the existing capabilities and the convergence of technologies.

2. Gradation of Remedies

It seems that the European Commission changes from their principle of a sustainable ladder of investment to a gradation of remedies (see explanatory note, point 3.1.4.). This change would build barriers for market entry and for migration from the achieved competition level (eg LLU). As the operators take the risk of investment, the decision to determine viability of business models has to stay within their sphere. The concept of gradation of remedies has the aim to promote infrastructure based competition to the greatest possible extent but a solid system of investment as suggested with the ladder of investment would be a more sustainable and competition supporting concept.

3. Wholesale Broadband Access

Following the principle of the ladder of investment wholesale broadband is even in NGA an important step into the market and should be recognised for this function. The EC points out that virtual access remedies may evolve from current bitstream products to something which is more flexible and which better reflects the technical capabilities of the new networks (recital 11). This “something” should be explained in much more detailed and be upgraded to remedy status. Eg Ofcom proposed two Wholesale Access Products called active line access, one time to the cabinet and the second time to the home (Source: CEWC 2008, Ofcom, 25.9.08). In contrast to passive line access active line access is a form of enhanced bitstream (Ethernet bitstream) which retains as much as possible of the level of innovation supported by passive access. Active line access is neutral to higher layers, implementation neutral to the underlying media, service neutral to applications (voice, data, tv...) and offers one wholesale access for all technologies.

LLU and duct access is not viable everywhere. Because of this fact, bitstream access is essential, not only as entrance support to the market but for established operators to maintain their roll-out strategies and even for bigger operators intending to give access to consumers outside their own infrastructure (eg business consumers with widespread offices).

The need for a practical wholesale broadband access is evident. The potential subsequent innovations and investments depend on the definition of this product. The better this definition is and the more flexibility is offered, the more innovation will follow and the more consumers will benefit. Because of this importance the recommendation should include the option of enhanced bitstream in wholesale broadband access more explicitly as a remedy.

4. Summary

The recommendation provides a solid road map for regulation on Next Generation Access Networks and we appreciate the efforts of the European Commission regarding this topic, especially moving the access to ducts and dark fibre into the realm of regulation. However, some additional facts have to be kept in mind:

- Focussing on “infrastructure first” ignores the limited reach and diversity of infrastructure competition. Rather, efficient investment in infrastructure and the concept of an effective open network should be promoted. Only a range of access options guarantees efficient and sustainable investments.
- For us it is most important to foster the ladder of investment rather than the graduation of remedies. The operators take the risk of investment and so they have to be given the opportunity to decide on their business models themselves. For this reason, wholesale bitstream access plays a significant role not only to guarantee entrance to the market for new operators but even for already established operators to provide their services nationwide. The better bitstream access is defined the more intensive investment and growth will be. To support this development the technical capabilities of the new networks have to be used in bitstream too, eg with enhanced bitstream and active line access.

Best regards,

ISPA Internet Service Providers Austria



Dr. Andreas Koman
President



Dr. Andreas Wildberger
General Secretary

About ISPA: ISPA is the Austrian association of Internet Service Providers, representing approximately 200 ISPs. ISPA is a major voice of the Austrian Internet industry. Our goal is to shape the economic and legal framework supporting an optimal growth of the Internet and Internet services. We regard the use of the Internet as an important cultural skill and acknowledge the resulting socio-political responsibilities.