

ERG Report on the regulation of access products necessary to deliver business connectivity services

- QSC AG; Germany response January 2010-

General Remarks

QSC does welcome the ERG Report above and supports its findings and the proposed work programme in general. We do see the business services market as a market, currently overlooked by many NRAs due to the very small number of actual network connections (leased lines, bitstream access, mobile) involved. But the economic importance of this market segment for the overall economic performance of the European Union is quite significant, as it should deliver productivity improvements for national and multinational corporations.

QSC does entirely support the response by ECTA, of which QSC is a member, and refrains from restating the relevant points.

Nevertheless we would like to emphasize one very important recent development, as this its consequences are also significant for the business services market. Up to now, the ERG has mainly focused on the fixed markets and its relevant product set. But now the mobile part has to be seen as part of the picture as a complementary, but essential ingredient.

Detailed Remarks

Discrimination on mobile termination rates by horizontally integrated operators

A recent tendency across Europe is the merger and integration of fixed and mobile operators into a single company (for example O2 Germany, Vodafone and – in the near future – Deutsche Telekom AG). This future industry structure poses a particular challenge for non-discrimination, especially concerning mobile termination. In Germany, we have increasingly seen bundled offers of fixed and mobile components, where termination towards the mobile phones of the particular customer/corporation is already included in the – low – base price. As such, in most of the cases the price of the bundle is not significantly higher than the amount of termination revenues, a third operator would have to pay towards the mobile operator in the same scenario. In case of these bundled offers, which are also used in the business services market, operators with no affiliated respectively integrated mobile operator are no longer competitive.

In the absence of symmetric termination rates (fixed-to-mobile and mobile-to-fixed) lacklustre enforcement of the non-discrimination obligation from the mobile termination market, which is manifested in those product bundles, will have a significant detrimental effect not only on the general business market, but also on business services. The current providers in those markets mostly do not have mobile affiliations and if, they are not present in every European market. The result will be a more heterogeneous (un-?) Common Market, where blocs are carved out due to – horizontally integrated – fixed and mobile presence.

The ERG will have to work quite hard to implement up-to-the-task detection and prevention tools to ensure non-discrimination in horizontally integrated operators with SMP (so far) only in the mobile termination market. The requirement to implement MVNOs is a necessary part of the solution to the problem, but as long as the MVNO still has to pay regulated termination rates different from fixed rates, the potential for discriminatory behaviour keeps alive.

The bottleneck in this case is access to mobile termination services at short term marginal cost. So even with a swift implementation of the Commission recommendation on Termination, which seems to rely on long term marginal cost, a significant bottleneck for the long term competitive provisioning of business services will prevail.

We therefore propose to the ERG to include access to this bottleneck not only into its work programme concerning business services but also in a wider context.

About QSC

Cologne-based QSC AG (QSC) is a nationwide telecommunications provider with its own broadband network, offering businesses of all sizes and premium residential customers a comprehensive portfolio of high-quality broadband communication options. QSC implements complete enterprise networks (VPNs), including managed services, operates voice and data services on the basis of its Next Generation Network (NGN) and provides leased lines in a wide variety of bandwidths - ranging all the way to 400 Mbit/s via microwave technology. In the Wholesale line of business, this network operator additionally supplies national and international carriers, ISPs as well as strong marketing partners in the residential customer market with unbundled DSL upstream products. QSC operates on a nearly nationwide scale, connects over 200 German cities with populations of more than 40,000 and currently employs a workforce of 700 people. QSC is listed on the TecDAX.