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## **Consultation on an addition of a cable network access chapter to the Common Position on wholesale bitstream access**

Ladies and Gentlemen,

The VAT, the Austrian Association of Alternative Telecommunication Providers, represents new entrants on the Austrian telecommunication markets. Our members offer a wide variety of communication services including mobile and fixed line services such as voice telephony as well as narrowband and broadband data services.

With reference to the Consultation on an addition of a cable network access chapter to the Common Position on wholesale bitstream access we would like to bring the following issues to your knowledge.

We understand that the consultation paper examines the technical aspects of providing wholesale broadband access via cable in the light of the new European electronic communications networks and services (ECNS) regulatory framework. Generally spoken, we agree with the approach, that all existing broadband-capable infrastructures as well as their impact on the broadband market should be assessed and that it has to be analysed whether broadband access over cable is indeed equivalent to that provided by DSL.

However, the situation in the Austrian market is not comparable with the market in many other member states, since the spread between DSL operators and CATV operators is different. We therefore would like to draw your attention on the following peculiarities of the Austrian market.

### **CATV and DSL operators in the Austrian market**

54% of the retail market for broadband services is realised by DSL, 46% is realised by CATV. Other access technologies like W-LAN, PLC and FTTH are of minor importance. More than 250 CATV-operators are offering services in Austria, while 90 of them offer broadband access. All CATV-operators only offer local services, while ADSL-services are offered by nationwide acting operators, such as Telekom Austria<sup>1</sup>.

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<sup>1</sup> RTR-GmbH, Abgrenzung des Marktes für Breitbandigen Zugang auf Vorleistungsebene, März 2005 S 7ff

**the retail business market in Austria**

The retail business xDSL market consists, in part, of large companies with geographically widespread subsidiaries or offices, e.g. bank branches, retail stores. Whilst the service may have to be differentiated/customised customer-by-customer, the large customers require an identical service (e.g. IP-VPN) in all locations, across the entire national territory. Consequently, OLOs need to have the ability to purchase wholesale services (Mkt 11 Local Loop Unbundling and Mkt 12 Wholesale Broadband Access) which allow them to produce homogeneous retail services across the entire national territory. This is not possible by mixing and matching solutions (e.g. DSL in one area, cable in another area). These elements support a national dimension of the relevant market for Wholesale Broadband Access. Within the business market, CATV can therefore not be deemed to be a substitute to ADSL.

**the retail residential market in Austria**

The retail residential market is a mass market. OLOs/ISPs need to be able to compete on this mass market in its entirety, and cannot be an effective competitor against the national telecommunications company or against its ISP subsidiary if they would be restricted to operating in geographical pockets of activity, or if they would have to offer different products in different geographies. Therefore OLOs/ISPs need to have the ability to purchase wholesale services (Mkt 11 Local Loop Unbundling and Mkt 12 Wholesale Broadband Access) which allow them to produce homogeneous retail services across the entire national territory. This is not possible by mixing and matching solutions (e.g. DSL in one area, cable in another area). These elements support a national dimension of the relevant market for Wholesale Broadband Access. Also within the residential market, CATV can therefore not be deemed to be a substitute to ADSL.

**Local Loop Unbundling**

Only 7% of all broadband services within the retail market were realised by DSL-unbundling as of eoy 2004<sup>2</sup>.

With LLU alone, neither type of new entrant operator will be able to achieve the necessary critical mass of customers to be a viable market participant (and achieve economies of scale approaching those of the incumbent competitors): the residential-focused operator needs to be able to market its services in all the same locations as the service is available from the incumbent, or would otherwise suffer an enormous commercial handicap; the business-focused operator needs to be able to win large bids for geographically dispersed customers.

**We therefore recommend the following amendment to the ERG Common Position on bitstream access:**

From a technical point of view, CATV can theoretically be considered to be a substitute for PSTN Bitstream Access, but market definition and market analysis must take the respective and actual market situation in each member state into account. Whenever only one operator is providing nationwide broadband services on the retail market as the situation is in Austria, it must be ensured that OLOs are entitled to purchase wholesale bitstream access from this operator in order to ensure equal and effective competition on the retail market and best and comparable services to the consumer.

We would kindly ask you to consider these deliberations during the consultation process on the proposed Common Position on wholesale bitstream access and we would be very grateful about an opportunity to further develop this topic in a personal exchange of views.

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<sup>2</sup> RTR-GmbH, Abgrenzung des Marktes für Breitbandigen Zugang auf Vorleistungsebene, März 2005 S 7

For any additional question or information you might require please do not hesitate to contact us (Phone +43 1 588 39 30, Email [rabussay@vat.at](mailto:rabussay@vat.at)).

Yours sincerely,

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