

Comments on the ERG Common Position on Wholesale Leased Lines (Draft)

ERG (07) 54

General Comments

Arcor wishes to thank the ERG for the careful and considered analysis of the regulatory challenges of imposing remedies on the relevant market for wholesale leased lines. We agree that the objectives of a level playing field, transparency of terms and conditions, and fair and coherent access pricing are of utmost importance for today's and the future competition.

It is in the nature of European consultation process that the problems and suggested regulatory solutions are presently rather abstract. Subsequently, we therefore wish to substantiate the problems competitors are facing in the German context in particular. Especially we want to call your attention to a specific problem that contradicts the mentioned objectives of ERG. We also believe that our example illustrates problems entrants are typically facing.

Fair and coherent access pricing

Transparency is one of the main requirements to achieve a level playing field and fair and coherent access pricing. Minimum requirements in this context are:

1. Network operators depending on leased lines must be able to find out how the price of a leased line accrues
2. Network operators must be able to control the prices they are charged
3. Network operators should not pay more than they get

Though these requirements look self-evident, all of them are violated with the electronic interface that is offered by the incumbent in Germany.

a.) Charging Determination Points

The length of a leased line depends on the shape of the local coverage area, because it is defined as the distance between the location of the customer and a "charging determination point (CDP)" of the local coverage area. This CDP is often represented by the MDF, though an explicit definition does not exist. Arcor believes that such a regulatory definition of CDP must be set by the NRA. This definition must imply that the length of a leased line is represented by the distance between the location of the customer and the nearest MDF, if the CDP is represented by a MDF.

This request is not a postulation for a “greenfield-approch”, since it takes into account the number and the locations of the existing MDF of the incumbent’s network.

b.) Location of the Charging Determination Points

Wholesale terminating segments of leased lines are charged depending on the linear distance between the customer and the relevant CDP. This implies that the location of CDPs determine the price of the leased line. One of the main problems is that the incumbent does not inform about the exact locations of CDPs. Therefore it is not possible to verify the amounts charged for wholesale leased lines.

However, to achieve a level-playing field and fair and coherent access pricing, entrants must be able to find out how the price of a leased line accrues and to control the prices they are charged. Therefore it is absolutely necessary to get exact and reliable information about the location of the CDP. The address would not be sufficient, since a distance of 10 Meter will be approximated to 1 kilometre. Calculations of the distance must be exact to 1 metre.

c.) Charging by the Kilometre

A large portion of the wholesale leased lines are charged in segments of 1 kilometre. Arcor estimates that 71% of the total charges depend on the length of leased lines. Arcor estimates that the average radius of a local coverage area of a MDF is not more than 2.4 km. The average length of a wholesale terminating segment is 1.273 km and the median not more than 0.899 km. This proves that segments of 1 kilometre starting from the first 10 meters is much to imprecise for such an important component of the charges and an inaccuracy in favour of the incumbent. To achieve a level playing field, network operators should not pay more than they get. An exact and comprehensible measuring of the length of wholesale leased lines is as well necessary as a fair approximation for billing purposes.