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European Commission, for the attention of the State Aid Registry
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Consultation on the Commission's Broadband Guidelines on the application of EU state aid rules to public funding of broadband networks (HT. 2079)

Ladies and Gentlemen,

With reference to the Consultaion on the Commission's Broadband Guidelines on the application of EU state aid rules to public funding of broadband networks, the Austrian Association of Alternative Telecommunications Operators (VAT) welcomes the opportunity to provide a statement.

Our association represents the interests of all major alternative telecommunication operators in Austria. Our members provide fixed and mobile services, also in the broadband sector. **Colt** Telecom Austria GmbH, **Hutchison 3G** Austria GmbH, **Orange** Austria Telecommunication GmbH, **Tele2** Telecommunication GmbH, **T-Mobile** Austria GmbH and **Verizon** Austria GmbH are represented by us.

Broadband infrastructure is essential to provide reasonably priced access and sufficiently high bandwidth and coverage to the people living in a region. The consumer's demand for broadband services triggers the investment in new infrastructure as well as the upgrade of existing infrastructure. Benchmark for the next step to be taken is the consumer's need for broadband services. **Having this in mind, the alternative operators doubt, that the focus on line based technology, i.e. fiber technology and the upgrade of cable networks, is the right approach for funding activities of the government or similar organisations as communities or provinces** as stated in chapter 3 of the Guidelines where the principles for state aid for NGA networks are described (para. 46, 48).

The alternative operators therefore believe, that only a **evolutionary, neutral in respect of technology and competition, open and flexible approach** will successfully lead to the highest possible coverage and the necessary broadband capacities according to the consumers need.

Evolution:	Every roll-out must be based on a sound business-model. The roll-out of infrastructure or the governmental funding of infrastructure that is driven by an irrational enchantment for FTTH solutions will neither come to a return of investment, nor come to a reasonable deployment of governmental funds.
Technological neutrality:	As the Commission's Broadband Guidelines should not have a short term, but a long term approach (which leads to long term stability of the legal and economic framework), a strict technological neutral approach shall be followed. Mobile broadband access services shall also be taken into consideration as LTE developments are on the move and as former television frequencies (digital dividend) should also be taken into consideration for providing broadband access to the consumer.
Competition neutrality:	Existing infrastructures and existing operators face competition on the market. Any governmental funding must be free from distortions in competition. The Commission's guideline must ensure, that existing infrastructure (fixed and mobile) is not devaluated.
Open tenders:	Infrastructure funded by the government or by similar organisations as communities or provinces must be opened to all operators interested in buying the respective wholesale products.
Flexibility:	The tender procedures for governmental funding and its requirements must be set in a technological neutral way, in order not to impose market access barriers (see also below).

The supply of services must be oriented on the customer's demand – and so, the infrastructure roll-out must be oriented on the demand of a region. As the demand for FTTH is less in rural areas than in urban areas the Commission's Guidelines must be designed in a flexible way to evaluate and to meet these requirements (see also below)

Following these introductory assumptions we would like to highlight the following issues:

(1) Infrastructure roll-out concept based on the consumer's demand

A reasonable infrastructure roll-out concept is the prerequisite for a sound infrastructure and market development in a territory. If the market was defined as to be "FTTH only", nearly the entire region of Austria would be a "white spot" and government funding of the incumbent's fiber lines would be the only way to inhibit Austria from falling behind – which is (not only) economic nonsense as the consumer's demand can easily be satisfied by DSL-services and as mobile broadband services are a success story.

Therefore, reasonable and regional different approach shall be considered when the market is defined and the funding areas are identified – we do not believe that 1 GB/s downstream services and 100% coverage must be available all over Europe by tomorrow, we believe that a gradual closing of the existing gaps is far more important.

Before governmental funding shall be initiated, it has to be evaluated in which region which technology at what costs can provide broadband bandwidth according to the assumed consumer demand.

Based on this evaluation, for each region a decision shall be made, where one (or more) technologies with the highest cost-ratio-value are identified to cover the needs for each region based on its specific requirements.

This may lead to different results in the respective regions – e.g. in urban areas with a high density of population, fiber access might provide high bandwidth to the consumer at comparably low prices (although one can doubt, that in these areas, the roll-out would not take place without governmental funding). In "grey" areas, the further roll-out or the "upgrade" of existing technologies (as xDSL or mobile) might be reasonable. In sparsely populated areas, mobile broadband access could be the most cost efficient way to satisfy the consumer's needs at its best.

This evaluation and decision procedure shall be made by the member state's ministries and supervised by the European Commission, so that it is ensured that evaluation and decision are made independently and free from political influence as they have major impact on the existing operator's business models and on competition.

Para. 45 of the Commissions Guidelines (broadband map, coverage and market analysis) **shall therefore be expanded by this evaluation and decision procedure** in order to choose the best technology for each region.

(2) Requirements for open tender's

The alternative operators agree that State Aid or governmental funding should only be granted if and when an open and public tender has been made. However, the setting of the requirements of a tender is of major impact for the project. Tenders shall always be initiated for the benefit of the people living in a region. So the intention of the project initiated by the state or by governmental organisations such as communities and provinces, is to provide reasonably priced access and sufficiently high bandwidth to the people living in a region.

By drafting the requirements for the tender, it must be ensured that the conception of the tender does not exclude certain technologies or certain operators from the very beginning.

In chapter 2 (para. 45 and 45d) of the Guidelines, where the Commission's current policy on state aid for broadband projects are described, a technological neutral approach is followed, while in chapter 3, where the requirements for the Commission's future policy in respect of governmental funding of NGA are outlined, a different approach is taken. As privileges granted for line based technology consequently lead to competitive disadvantages for other technologies, the alternative operators speak out also **to set a technological neutral approach in the state aid funding of NGA. Focussing only on fiber access as FTTH and cable network upgrades is much to narrow – mobile networks and mobile broadband services must not be excluded when governmental funding is provided** as the consumer's demand for broadband services will and can also be satisfied by evolutionary access technologies such as LTE or services based on former television frequencies (digital dividend).

The exclusion of mobile broadband infrastructure from being funded by the government and a funding of the government focussing in fiber technology only would lead to a clear distortion of competition. The government would not act in a market-neutral way. If, for example, a DSL-operator, a fiber-operator and a mobile-operator already compete in a certain region, the most efficient, the most economic and the most cost-saving concept shall be supported in order to reach the aims and to target the intention of the project. Everything else would lead to a distortion of competition and to a depreciation of the existing infrastructure of other technologies than fiber.

(3) Access to the governmentally funded infrastructure for all interested operators

Operators do not invest in infrastructure where they do not have financial and ownership control over it as no investor would approve investments where its return is beyond control.

If infrastructure is (co-)funded or financed by the state or by governmental organisations as communities or provinces, it must be ensured in a legally binding way, that all operators have access to this infrastructure to the same extent. From our point of view, different scenarios are possible. A build-up **infrastructure company**, who sells the net to all operators for own account (Singapore separation model) could be taken into consideration as well as a **mutual access model**, where a group of operators agrees on a common roll-out, while certain operators are responsible for the roll-out in the respective geographical areas, where the roll-out is to a namely extend self-financed and funded by the government and where it has to be ensured that all interested operators have access to this project.

We thank for the opportunity to give this statement and kindly ask to take our statement into account in the consultation procedure.

Kind regards,

VAT – AUSTRIAN ASSOCIATION OF ALTERNATIVE TELECOMMUNICATIONS OPERATORS

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