

EU Telecom rules: Where are we now?



The current framework is firmly established in Austria and has mainly produced benefits for end-users. Retail mobile voice prices, for instance, are quite low, having continued to fall in 2006. Further consolidation has taken place, and win-back strategies by the incumbent fixed network operator, for example in the retail broadband market, are showing signs of partial success.

The National Regulatory Authority (NRA) has already embarked on the second round of market analyses, having completed its first round for all but one of the relevant markets in the Commission Recommendation and is also imposing the resulting remedies. It used the full range of possibilities allowed by the Telecom Rules. However, several remedies have not yet been implemented in practice, since details have needed to be clarified in dispute-settlement procedures. In many instances market players meanwhile preferred to stick to old agreements established prior to the market reviews.

Overview

Broadband

Penetration was 15.9% in July 2006 (up from 13%). Cable continues to be the alternative operators' most popular technology, as 38.9% based their offer on cable modem.

The alternative operators' market share for retail broadband was 60.2%, down from 63% in July 2006. Their market share was 19.3% based on DSL and 40.8% based on other technologies. The DSL figure breaks down as follows: 10.2% based on Local Loop Unbundling, 9.1% based on bitstream. Finally, 1.3% of the alternative operator's market share are based on Wireless Local Loop and 0.7% on other technologies.

The broadband competition is mainly between cable infrastructure and DSL. Consolidation is also taking place in this regard, as a large cable network operator recently acquired a DSL access provider. Broadband revenues rose from €361 million in 2004 to €440 million in 2005, an increase of about 21.9%.

Mobile

Mobile penetration was 108% in October 2006 (up from 99%), and there were 8.9 million subscribers. There are four mobile network operators in the Austrian market now. The second largest operator acquired the previously fourth largest. The Commission approved the merger after the second largest operator entered into certain commitments. When assessing the merger, the Commission stressed the previously fourth largest operator's role as a "maverick" on the market that had promoted competition through remarkably low end-user prices. It remains to be seen whether prices for mobile communications will remain at their current very low level.

The market share of the mobile operator owned by the incumbent fixed network operator remained steady at 39%. The market share of the second largest operator (after the merger with the previously fourth largest operator) was 35.1%, that of the third operator about 19%.

Fixed telephony

The incumbent fixed network operator further strengthened its leading position in the market. The alternative operators' market share went down from 49.6% to 48.4% for fixed calls to mobile, and from 45.5% to 45.2% for national phone calls including internet, in terms of retail revenue. For local calls, where the incumbent had increased its market share significantly according to last year's report, the NRA is no longer able to furnish updated figures due to a change in its data methodology. The alternative operators' market share for local calls to the internet was 27.4%, based on outgoing minutes. Their market share by retail revenue for all fixed phone calls increased from 45% to 45.4%.

The unbundling of the local loop continues to make progress and results should become more visible in the near future. According to the alternative operators, however, only 5.7% of the incumbent's fixed lines have been unbundled so far.

Broadcasting

In the market for terrestrial television broadcasting one undertaking was identified as having control of 98% of the sites and transmitters for analogue terrestrial TV broadcasts. The same undertaking was identified on the market for terrestrial FM radio broadcasting as controlling 62% of the sites and 84% of the transmitters installed for terrestrial radio broadcasts. The said undertaking manages the nationwide public broadcasting station.

Important consumer information

Tariff transparency	Lack of transparency is still an issue, especially with regard to mobile tariffs, despite the fact that all tariffs are published on the NRA's website. The Austrian Chamber of Labour's Consumer Protection Department has complained about the further abolition of per-second billing contracts.
Universal service	As far as the enquiry services are concerned, their characterisation as a universal service was slightly changed by an amendment to the TKG in 2006. If competition exists there will be no invitation to bid. It is the objective that only if the market itself does not or cannot provide the service, the Federal Minister would designate a universal service provider. As a result, the incumbent fixed network operator is no longer obliged to offer the inquiry service as a universal service obligation.
Retail tariffs	The trend in retail rates for fixed line voice telephony has been stagnating. According to the NRA, the trends in retail rates for mobile communications have been clearly going down. Retail prices for broadband have been decreasing only slightly.
Must-carry	As mentioned in the previous Implementation Report, the nature of the specification of the general interest for the must-carry obligation of the two nationwide public broadcasting stations is being examined. No further administrative decision is required to impose this obligation.
Data protection	The industry expressed concerns about the Austrian transposition of Article 13 of the Electronic Data Protection Directive dealing with electronic advertising, and this after a recent amendment to the TKG intended to assuage the Commission's concerns expressed in a letter of formal notice in March 2005. The Commission closed the infringement proceeding following that new legislation.

Infringement proceedings pending under the EU Telecom Rules: 0

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