



Driebergen, Netherlands, Wednesday 17 June 2009

INTUG says European Commission NGA Recommendation is an Open Charter for Regulatory Holidays and threatens to kill next generation competition in Europe.

On Friday 12 June, the Commission issued a second draft of the Recommendation on Next Generation Access, following an initial consultation launched in September 2008.

This subject is of supreme importance to business users of telecommunications services, since it will determine if services using next generation fibre access will be available on a competitive basis, or whether the EU will revert to Member State monopolies or duopolies.

Nick White, Executive Vice President of INTUG, the global group representing business users of telecoms, said today, "The NGA draft recommendation is an extraordinary U-Turn by the European Commission. It represents a unilateral rewriting of competition law in the sector, and is in direct contravention of Article 82 of the EU Treaty. It is in effect an Open Charter for granting regulatory holidays to dominant operators in Europe. The NGA draft completely undermines the Commission's own proceedings against Spain and Germany, and gives any country carte blanche to establish infrastructure monopolies or duopolies.

Business users will be hit particularly severely by these proposals, since their network service providers will either be unable to obtain next generation access infrastructure at all, or will only be able to obtain it on non-competitive and discriminatory terms. This will force fragmentation into direct local arrangements with incumbent operators at higher cost and lower service levels, imposing a tax on cross border trade, and blocking new efficient business processes which aim to generate jobs, productivity and economic growth.

As recently as May 25, the Commission wrote to INTUG on behalf of the Competition and Information Society and Media Directorates saying, "*It is a top priority to ensure that market entry in the form of third party access is possible at all levels of the value chain, particularly by means of a fair process of migration and safeguarding the principle of non-discrimination*". This principle appears to have been abandoned completely, since the draft NGA Recommendation exempts dominant operators from discrimination and cost-orientation provisions, as long as they conclude one co-operative arrangement..

INTUG urges the Commission to pull back from this highly damaging approach and return to supporting non-protectionist competitive telecommunications policy throughout the EU.