

Consultation on the Infrastructure Sharing Position Paper

NON-BINDING TRANSLATION

Vienna, 21.02.2018

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Appendix 1: Cover sheet

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1 Introduction

The Telekom-Control Commission (hereinafter referred to as TKK) intends to revise the 2011 Position Paper on infrastructure sharing. The Position Paper will be published at the same time as the call for tenders for the allocation of rights to use frequencies in the 3410 - 3800 MHz range. The consultation of the tender documents was also published today. The position paper deals in particular with cooperation between the three existing MNOs, as these could have a significant impact on competition.

Comments must be sent by e-mail to konsultationen@rtr.at by 29 March 2018. Please use the predefined cover sheet (Appendix 1). A list of organisations/persons that have submitted comments for consultation and agreed to the publication of the organisation/person will be published. Furthermore, the complete individual statements will be published only if requested.

2 Content of the Position Paper and questions

2.1 Passive sharing and backhaul sharing

The Position Paper does not intend to give any indications for the future expansion of passive infrastructure with regard to competition concerns. The position paper lists relevant points to be considered when examining possible competition concerns.

Question 1: Do you have any suggestions or proposals for improvement regarding the underlying reasons or the rules for passive and backhaul sharing? Please justify your proposal with competition-relevant arguments and support your argument with facts and data.

2.2 Active sharing

The Position Paper distinguishes between Vienna, Linz and Graz and other areas with active sharing. In Vienna, Linz and Graz, active sharing is regarded as being a competitive concern. It is therefore planned to prohibit active sharing in the ancillary provisions of the frequency allocation notice in these areas. Beyond these areas, it is necessary to examine individual cases on a case-by-case basis. Under certain circumstances, active sharing is also permitted in Vienna, Linz and Graz. In such cases, the jointly used active parts of the access network shall also be offered to third parties. The Position Paper provides for an obligation to report and provide information on active sharing in order to enable the regulatory authority to make a competitive assessment.

Question 2: Do you share the assessment of the importance of infrastructure competition in mobile communications? This assessment serves as a starting point both for the ancillary provisions in the context of frequency allocations and for any assessment required under competition law. Please justify your proposal with competition-relevant arguments and support your argument with facts and figures if necessary.

Question 3: Do you have any comments and suggestions for improvement concerning the Vienna, Linz and Graz area and the justification of this rule? Should this area and the corresponding rule be more expansive or more limited? Please justify your proposal with competition-relevant arguments and support your argument with facts and data.

Question 4: Do you have any comments and suggestions on the exemption from the prohibition of active sharing and the obligation to offer active infrastructure subject to the exemption to third parties and the justification of these rules? Should this rule be extended or tightened? Should the binding offer to third parties be defined in more detail? Please justify your proposal with competition-relevant arguments and support your argument with facts and data.

Question 5: Do you have any comments or suggestions for improvement regarding the duty to provide information and to report? Please justify your suggestion.

2.3 Sharing of legacy technologies

The Position Paper lists relevant points to be considered when examining possible competition concerns. Thresholds of 10% and 3% share of legacy devices in the relevant service are cited as thresholds for a reduction of 3 to 2 and 2 to 1 respectively.

Question 6: Do you think there are other issues to consider when considering legacy technologies? Do you have any comments or suggestions for improvement regarding the threshold values (percentage and relevant service as a basis)? Please justify your proposal with competition-relevant arguments and support your arguments with facts and figures.

2.4 Fostering of new entrants or MVNOs

The Position Paper, which shall be the basis for the upcoming awards according to the current Spectrum Release Plan, explains that the TTK retains the right to encourage new entrants or MVNOs and that, if necessary, cooperations with new entrants are not subject to the rules of the Position Paper. New entrants usually create more competition.

Question 7: Do you consider the encouragement of new entrants, as expressed for example in the sharing possibilities, to be adequately treated? Please justify your comments with competition-relevant arguments and support your argumentation with facts and data.

3 Statements

Statements (in German or English) need to be emailed to

konsultationen@rtr.at

by **29.03.2018**.

Please use the cover sheet below.

RTR will publish a summary (without naming organisations or individuals) of all the statements received. Additionally, a list of the organisations/individuals that submitted statements for the consultation and consented to disclosure of the organisation/individual will be published.

If requested, the complete individual statements will be published as well.

APPENDIX 1

to the Consultation
on the Position Paper
Infrastructure Sharing

Cover Sheet

Cover sheet – statement for the consultation on the Position Paper Infrastructure Sharing

General information

Statement submitted by:

Represented by (if applicable):

Postal address:

E-mail address:

Confidentiality

Please indicate whether your statement is confidential and, if so, which parts, while providing reasons:

Non-confidential	<input type="checkbox"/>	Name/Contact information/Profession	<input type="checkbox"/>
Contents of statement are confidential	<input type="checkbox"/>	Organisation	<input type="checkbox"/>
Passages of statement are confidential	<input type="checkbox"/>		

In this case we request you to additionally submit an appropriately redacted version of the document that you consider suitable for publication.

RTR will publish a summary (without naming organisations or individuals) of all the statements received. Additionally, a list of the organisations/individuals that submitted statements for the consultation and consented to disclosure of the organisation/individual will be published.

Declaration

I hereby confirm that this communication is a formal statement within the framework of the current consultation and that the statement may be published by RTR subject to any confidentiality requests indicated above. When submitting the statement by e-mail, any standard e-mail texts concerning the confidentiality or disclosure of e-mail contents (including any attachments) will not be considered relevant by RTR for the case of publication.

Name:

Signature:

APPENDIX 2

Position Paper Infrastructure Sharing

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