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COMMUNICATIONS OUTLOOK 1999

TELECOMMUNICATIONS: Regulatory Issues

Country: AUSTRIA

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The attached questionnaire was undertaken in preparation for the biennial OECD *Communications Outlook*. The responses provided by countries on telecommunication regulation were used to provide information supporting the analytical sections published in association with data. A similar questionnaire with responses on broadcasting regulation is also available. In some cases, data for individual firms, used to compile OECD totals, have not been published at the request of the respondent. For further information, including data, see **OECD Communications Outlook 1999** and <http://www.oecd.org/dsti/sti/it/index.htm>

TELECOMMUNICATIONS

Market Structure and Regulatory Status (Questions 1 -13)

1. Please provide details of the regulation of communication infrastructure, including the public switched telecommunication network (PSTN), provision in your country.

Infrastructure provision for following service	Regulatory Status (e.g. monopoly, duopoly, limited number, fully open to any applicant)	Number of licensed operators (1998)
Local PSTN	fully open to any applicant	2 (1 of regional)
National PSTN	fully open to any applicant	11
International PSTN	fully open to any applicant	all 13 allowed to offer
Analogue Cellular Mobile (e.g. NMT etc.)	one incumbent operator	1
Digital Cellular Mobile (e.g. GSM etc.)	fully open to any applicant	3
Other Mobile Communication (e.g. PCS, PCN, CT-2 etc.)		na
Payphones	fully open / no application	no licence necessary

2. Please provide details for the major public telecommunication operator (PTO) of public switched telecommunication services in your country. (PTOs are state and privately owned entities providing public switched telecommunication services over their own infrastructure)

Name of PTO	PTO Ownership Status (1998) (e.g. state owned/privately owned) If a balance of ownership exists please indicate the share (%) held by the government
PTA Post and Telekom Austria AG	100% Government (via a holding company) (25% +1 share partner expected by the end of 1998)
Citykom Austria (not fully operational yet)	75% county capital cities 25% private (Mannesmann)
tele.ring (not fully operational yet)	25% State railway and "Verbund" nation-wide power utility 75% private (Mannesmann)
Stadtwerke Feldkirch (not fully operational yet)	City of Feldkirch
Telekabel Wien (not fully operational yet)	private
UTA (not fully operational yet)	50% regional power utilities 50% Swisscom (Swiss PTT)

- 3. Please provide details of market share for the largest PTO in the following categories.**
Note: Year end 1997 was still monopoly for PTA

	The largest PTO's share (End 1997)
Local Access (% of access lines)	PTA 100% (for public telephony service)
National Long Distance (% of total minutes)	PTA 100%
International (% of total outgoing MiTT)	PTA 100%

- 4. Please provide details of the number of subscribers by cellular and PCN mobile communication operators.**

Name of Operator	Number of Subscribers (End 1997)
1.Mobilkom	250.270
2.Mobilkom	688.982
3.Max Mobil	
4.Connect	0 (License just granted)
5.	

- 5. Please provide a description of the most significant recent policy changes affecting the provision of telecommunications services, as well as any draft laws, or regulatory proposals to be implemented in 1998.**

The new Telekom Law "TKG 97" (*Telekommunikationsgesetz 1997*) was enacted on 1. August 1997. The Law introduced full competition to the telecommunication sector in Austria. The monopoly of the PTA was ended on 31. December 1997 and a new regulatory body was introduced to govern the competition in the telecommunications market. Only voice-telephony and leased lines offered to the public if run on self operated networks, and public mobile telephony services over self operated mobile networks are subject to a license (*Konzession*) all other services, public or not, have only to be reported to the national regulatory body the Telekom Control.

6. Please provide a brief description of the responsibilities of the national regulatory authorities for public telecommunication services.

The telecommunication authorities are the Federal Minister of Science and Transport (highest telecommunication authority) and the Telecommunications Offices and the Approvals Office, which are subordinate to the highest telecommunication authority.

The Federal Minister of Science and Transport is responsible for

- issuing basic instructions regarding the activities of the regulatory authority,
- issuing and processing the regulations necessary for performing international contracts, with regard in particular to the use of the frequency spectrum,
- deciding on appeals against official notifications of the Telecommunications Offices and the Approvals Office, unless an independent administration senate assumes responsibility.

The Approvals Office is responsible for:

- deciding on applications for type approval for radio systems,
- deciding on applications for approval or type approval for terminal equipment and
- revoking approvals and type approvals.

The responsible authority for public (and other) telecommunication services is the Telekom Control Commission. The Telekom Control Commission is assigned the following functions:

- Issuing, withdrawing and revoking licences and sanctioning the transfer and amendment of licences,
- Approving business conditions and tariffs and exercising the right to object,
- Defining the amount to be paid to and the financial compensation to be paid from the universal service fund,
- Deciding which supplier is to be classed as having significant market power,
- Defining the conditions for interconnection in the event of a dispute,
- Deciding on failure to comply with the ban on cross-subsidising.

The Telekom-Control GmbH a specially established limited liability company, shall perform all the functions assigned to the regulatory authority in the Telecommunications Law (*Telekommunikationsgesetz*) and in the ordinances issued on the basis of this Law, unless the Telekom Control Commission bears responsibility for such functions. Telekom-Control GmbH shall take all the organisational measures to enable it to perform its functions and to enable the Telekom Control Commission to meet its obligations.

7. Are there any foreign ownership, size of shareholding or other ownership restrictions on individuals and corporations investing in the incumbent PTO(s) in your country? Yes/ No

The size of ownership is defined in the Law changing the PTA from a section of a ministry to a private law company still owned by the state. This law requires the whole PTA organisation to be brought to the stock market by year end 1999. However, in the meantime, the Telekom part of the PTA has been established as a separate company and a decision was taken to offer a stake of 25 per cent and one share to a strategic partner.

- 8. Are there any communication infrastructures or services (e.g. cable television, terrestrial broadcasting, satellite broadcasting) PTOs in your country are not permitted to directly provide? In addition, please specify any restrictions on PTOs investing in companies that such infrastructure or services.**

Any type of broadcasting is subject to separate regulations. There is no special regulation in these instances dealing with the PTOs.

- 9. Is the incumbent PTO(s) in your country allowed to provide mobile communication services? Yes/No**

If 'yes', is there a requirement for accounting separation between the PTO's mobile and fixed operations?

There is no provision related especially to the PTA in the law. It is within the remit of the regulatory authority to decide, on an case to case basis, whether there is a danger of breaking the competition rules.

Mobilkom Austria a 75% subsidiary of the PTA (25 % is owned by STET of Italy), is running all the mobile services previously operated by the PTA.

- 10. What selection procedures are used to determine licenses for new PTOs (e.g. calls for tenders, government appointments, license on request)?**

The telecommunication law states, that the regulatory authority shall grant the mobile radio licences on the basis of an open, fair and non-discriminatory procedure. It shall put the award of a mobile radio licence out to public tender as soon as an application for a licence for the relevant service is received or, if necessary, through official channels. The invitation to tender may relate to licences for certain services and for certain supply areas, once the Federal Minister of Science and Transport has looked into the matter and given approval.

The invitation to tender shall be published in the "Amtsblatt zur Wiener Zeitung" (Official Gazette of the *Wiener Zeitung*). The period within which applications for licences can be made shall be at least two months. The regulatory authority shall grant the licence for licensed mobile communications services to the applicant who meets the basic requirements and guarantees the most efficient use of the frequencies; this will be determined by the level of the frequency usage fee offered.

11. Please specify any restrictions or obligations imposed on new competitive network suppliers?

Any supplier shall draw up business conditions, describe the services offered and specify the relevant tariffs. The business conditions and any major changes to these conditions shall be presented to the regulatory authority in good time prior to commencement of the service or the date on which the change comes into force.

Each operator of a public telecommunications network is obliged to make an interconnection offer to other operators of such networks on demand. All parties concerned shall aim to enable and improve communication among users of different public telecommunications networks. If an agreement on interconnection cannot be reached within a period of six weeks either party involved in the interconnection may call in the regulatory authority.

Companies that have significant market power on markets other than the telecommunication market or that exercise special or exclusive rights in other areas must not cross-subsidise the tariffs for their telecommunications services from the areas with special or exclusive rights. They must have adequate separation, at the organisational or accounting level, between their business activities in the telecommunication sector and their other business activities to ensure transparency in the flow of payments and benefits between these areas of activity.

If a company relinquishes its infrastructure or free capacity of its infrastructure to another for the provision of a licensed telecommunications service, the costs on which relinquishment is based must not be cross-subsidised from areas with special or exclusive rights. This shall be notified to the regulatory authority by the relinquishing company prior to commencement of the service. Evidence for this is required and the regulatory authority may object to the relinquishment within eight weeks.

12. Are there any restrictions on the use of leased lines nationally or internationally (including resale)? Yes/No

No.

13. Under the communication regulation existing in your country how would national and international voice telephony services provided over the Internet, by entities other than a PTO, be defined and treated? Please mention any restrictions or obligations that may apply.

Currently, Internet telephony is not covered by the legal provisions for the “public voice telephony service.” Any operator or service provider can offer such a service.

Pricing (Questions 14 -15)

14. What, if any, conditions are applied to the tariffs set by PTOs? (Please include any price control information such as price caps and specify for which service they apply).

The tariffs for the voice telephony service via a fixed network and for the provision of leased lines require approval by the regulatory authority if the supplier of the service has significant market power. The tariffs shall be cost oriented and non discriminatory. For universal service there is, as a threshold, the stated tariff applicable on 1. Jan 1998.

15. If communication discount schemes are available in your country please provide information on one or more popular schemes applicable to residential users, dial-up Internet access users and a low user scheme from the incumbent PTO. In the space below please indicate the main features:

There is no real discount schemes generally available as yet. For large users there are discounts schemes available to counter the new competitors.

The PTA tariff structure is based on two factors: basic fee and call charges and, in addition, on the time of the day. Users can decide between four schemes varying from a high basic charge and lower call charges to a low basic charge and higher call charges. This schemes are: "Minimumtarif", "Standardtarif", "Geschäftstarif 1" and "Geschäftstarif 2".

Internet Access Discount Scheme:

There is no discount schemes available, however, the PTA is offering a special tariff for the access to Internet Service Providers (ISP) via special assigned numbers. The ISPs get numbers assigned on request. In addition to the fee the ISP must sign an agreement to prevent the numbers being used for voice telephony. The tariff vary depending on the tariff chosen as well as from the time of the day.

Low User Scheme:

There is a scheme in place where people with low income, the disabled and students will pay only the basic charge as well as call charges equivalent to one hour local (now regional) service. The cost of this will be reimbursed by the government . According the law the Federal Minister of Science and Transport can, by ordinance, impose special service obligations on operators of public telecommunications services for reasons of regional or social policy, provided their financing is guaranteed by the contract awarded and the operators can reasonably be assumed to accept them. Special service obligations may in particular comprise reduced tariffs for certain user groups.

Note: Residential user refers to an average consumer's home telephone service. A dial-up Internet user refers to a consumer accessing the Internet via a PC with a modem over the local public switched telecommunication network. Low user schemes is a term sometimes applied by PTOs to schemes designed for segments of the community that are financially disadvantaged.

Numbering/Domain Names (Questions 16 - 17)

16. Please describe the numbering policy in your country. Please mention the responsible authority and whether portability has been introduced and for which services (e.g. 800 numbers, cellular numbers, local PSTN numbers).

According law, the Ministry is responsible for establishing an ordinance for the principles and a detailed numbering plan. The NRA is responsible for assigning the numbers to the requesting parties.

Number portability has been introduced for private networks, for person oriented services, for services with special tariffs and for value added services as well as for numbers in the public interest.

Full geographical portability within the regional areas shall be available from 1.1.2000 onwards.

17. Have there been any recent government policy initiatives in your country in respect to the administration of Internet top level domain names. (An example of a top level domain name is .be for Belgium). Yes/No

No.

Interconnection (Questions 18 - 21)

18. Are PSTN interconnect or access charges a matter for commercial agreement between operators and if so is there provision for arbitration and by whom? Is there a requirement to publish the rate for PSTN interconnect or access charges? Yes/No

If 'yes' please provide a schedule of interconnection charges for the PSTN.

PSTN interconnect or access charges a matter for commercial agreement between operators. Each operator of a public telecommunications network is obliged to make an interconnection offer to other operators of such networks on demand. All parties concerned shall aim to enable and improve communication among users of different public telecommunications networks.
If an agreement on interconnection cannot be reached within a period of six weeks from the receipt of the request, either party involved in the interconnection may call in the regulatory authority (NRA).

There is a legal requirement for the NRA to publish the interconnection charges

Interconnection charges set for terminating traffic are:

Tandem (V3) AS 0,25 per minute; no call set-up charge

Double tandem (V4) AS 0,33 per minute; no call connect charge.

No decision on other charges yet.

19. For the purpose of establishing interconnect or access charges is accounting separation used?

The following basic principle applies also to interconnection:

Providers of public telecommunications services who have significant market power on a telecommunication market must have adequate separation, at the organisational or accounting level, between their activities on the different telecommunication markets to ensure transparency in the flow of payments and benefits between these areas of activity.

The interconnect access charges have been decided by the NRA because no agreement was reached in due time between PTA and the “alternative” network provider.

The calculation of interconnection fees must be calculated, based on long running incremental costs.

20. Once the interconnection or access charge has been established is it available as a standard rate for other service providers (including other PTOs and resellers)?

Yes in principle.

Companies with significant market power are obliged to produce a list of the standard interconnection offers which will contain, if available, tariffs set by the NRA to comply to the non discrimination obligation. This applies to other existing contracts if allowance has been made.

21. Does regulation specify that competitive service providers can co-locate facilities on the same site as incumbent PTOs? Please indicate whether resellers and Internet Service Providers can co-locate equipment under the same terms and conditions as PTOs without being designated as a PTO?

Collocation is regulated, in secondary regulation, only in principle (i.e. decree on interconnection). Dominant operators of public telecommunications networks must allow other operators or providers of services the usage and the physical access to the networks or parts of it, including location access, in the same way and under the same conditions they do for the same, or similar, service provided by themselves.

Information for Updating OECD Tariff Comparison Baskets (Question 22)

22. Please provide the following information for your largest PTO.

What is the average duration of a local call (i.e. average time of a call in the lowest tariff band for PSTN)?		
What is the proportion of calls that fall within your lowest tariff band (i.e. local calls) as a percentage of total national calls?	Business (%)	Residential (%)
What percentage of calls from the fixed network (PSTN) terminate in mobile networks (e.g. analogue and digital cellular networks)?	Business (%)	Residential (%)
What percentage of total leased lines (i.e. leased circuits) are local (i.e. 2 km or less)?		

Universal Service/Consumer Issues (Questions 23 -25)

23. In the context of universal service policies which elements of telecommunication service are considered as part of universal service in your country?

<p>The following elements of telecommunication service are considered as part of universal service:</p> <ul style="list-style-type: none">• access to the public voice telephony service via a fixed network connection, via which a fax machine and modem can also be operated, including the transfer of data at rates compatible with transmission paths for voice communication,• unrestricted access which is free of charge to emergency services, including the correct processing of emergency calls and the necessary identification of the caller's location,• access to directory enquiry services,• access to directories of subscribers to public voice telephony services and full area coverage with public pay telephones at generally accessible locations.

24. Please provide details of any explicit funding mechanism for universal service and its coverage.

<p>Licensees who offer a public voice telephony service via a fixed network or a mobile network and have an annual turnover of more than ATS 250 million shall contribute to financing the universal service fund and financing the management of the fund according to their relative market share (universal service contribution). The proportion is calculated according to the relationship between turnover and the total turnover of the contributing licensee on the relevant market.</p>

25. With what institutions other than telecommunication service providers can customers lodge complaints regarding these operators? (e.g. regulators, ombudsman, Ministry, etc.) Is there a requirement for annual reporting of the number of consumer complaints? If so how are complaints measured and reported.

National Regulation Authority (Telekom Control). There is no legal requirement for an annual report however the NRA is planning to provide reports on all matters under their remit.