



EETT
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Re: «Public Consultation on the proposals for amendment of Decision of EETT AP 470/37/2008 «Approval Reference Offer for the provision of OTE Wholesale leased lines, application of AP EETT 401/014/6-9-2006» and AP 477/002/2008 «Approval Reference Offer for the provision OTE Partial circuits, application of AP EETT 401/014/6-9-2006 »

Dear Sirs:

The Business Carrier Coalition (“BCC”) is a group of international telecommunications carriers comprised of AT&T, BT Global Services, Cable & Wireless, Orange Business and Verizon Business. BCC provides a vehicle for common issues to be raised and presented to relevant regulatory stakeholders across Europe, Middle-East and Africa.

The members of BCC are carriers providing large businesses with advanced electronic communications services between their various offices, factories and distributors in Greece, and between Greece and their operations abroad. For the provision of services to their customers, they depend on leasing telecommunications lines (leased lines) from OTE in their respective capacity as Other Licensed Operators (hereinafter “OLO”). With these leased lines, they connect the office locations of their customers to their global networks.

Although the EETT is conducting this limited consultation OTE's proposed changes to its Reference Offer (“RIO”) on leased lines, BCC also takes this opportunity to lodge comments with the EETT which affect a broader range of issues, as these are important in order for the EETT to better take into account the wider implications of OTE's leased lines policy.

ON THE CONSULTATION

Part A, 3. Service , Point-to-Point Circuits

BCC welcomes the opportunity of its members being able to order point-to-point circuits. However, in order for such a product be an effective competitive input, its price should not exceed the price for comparable Partial Private Circuits.

Part A 4. New Leased Lines Interconnection Points (KoΜΓ)

We welcome that the number of interconnection points is going to be increased. Nevertheless, this measure alone is not sufficient to remedy the increase in price, in particular for lower speed circuits, which occurred with the previous modification by OTE of its RIO.

Indeed, as global carriers with operations in a number of countries, BCC members have direct visibility into the rates charged by our suppliers for similar types of services in other countries. The price increase effected by OTE went completely against the universal wholesale pricing trend, at least across the entire European Union.

In recent years, the EETT has authorized OTE to adjust the rates it charges for leased lines, thereby most adversely affecting those customers which lease below 2Mbit\s capacity. These are, however, the very leased lines which serve as the basic building blocks for BCC's members international service offerings in Greece. Such prices, when compared to leased lines prices across the European Union, are excessive in light of prevailing best practices. In fact, the trend elsewhere in the European Union is that leased line prices have declined for below 2Mbit\s speeds. This issue was already raised with the EETT by one of the BCC members in writing at the end of 2008. On that occasion, it was noted that in the second half of 2008 the following price increases had been introduced by OTE:

- (a) 64 Kbit\s up 19%
- (b) 128 Kbit\s up 13%
- (c) 256 Kbit\s up 15%
- (d) 512 Kbit\s up 6%
- (f) 2 Mbit\s up 4%

Wholesale price rises of the magnitude that OTE is now authorized to charge for leased lines cannot be wholly absorbed by service providers, who will inevitably need to pass on some of these costs to customers. The natural by-product of this will be higher telecommunications charges for the core customers of BCC members, namely, very high users of telecommunications services which are the companies which drive the Greek economy.

This increased cost to business should also be seen in the overall context of the relatively low growth of broadband in Greece compared to other EU Member States, given that

broadband connections are seen by many large users as being equivalent to the leased line speeds which they require for their business communications.¹

Part B, 1. Consolidation

Various BCC members have already signed contracts with OTE in 2009. Our member companies were compelled to sign the RIO, otherwise OTE would rejected any of their orders. These contracts are for terminating/trunk and partial circuits. The EETT should take into account the fact that OTE has already signed these contracts, and the EETT's final decision therefore should, consistent with the principle of non-discrimination, dictate the steps for migration for these existing contracts to the new terms; such migration should ensure that the integrity of these contracts should be maintained in their entirety and without damage to the parties that have signed those contracts.

ADDITIONAL POINTS

BCC notes they have had ongoing concerns regarding OTE's leased lines practices in the following areas, and consider these OTE practices restrict the full benefits of competition in Greece. Some of these concerns relate to the following practices:

1. **Mandatory Customer Signature.** A mandatory customer signature is required on the order form that *wholesale* customers must submit to OTE for leased lines. OTE has maintained this anti-competitive requirement for signatures from the customers of OTE's competitors, although this is not part of the approved RIO, nor is it based on national regulation or compatible with the underlying policy rationale behind the various EU directives. This OTE policy creates significant problems for the timely execution of contracts executed by competitive providers with their customers and clearly disadvantages those competitive providers. This issue has been raised to EETT by BCC members since March 2008, but without success.

2. **Uncapped Liability.** The RIO provides in Clauses 6.1 and 8.7 for certain uncapped liabilities that relate to both OTE and the Other Licensed Operator (OLO) as the contracting (buying) party. In BCC's view, a RIO should contain provisions that limit the liability of the parties to a reasonable and proportionate extent. Liability should be limited to a specific amount, and except in case of an intentional act by OTE or its agents or employees, a cap on liability is justified. The EETT may also wish to consider its position in this regard by reference to best European practice, by investigating this

¹ More details can be found in the Broadband Scorecard developed ECTA
http://www.ectaportal.com/en/upload/File/Broadband_Scorecards/Q3_2008/BBScQ308_final.xls

question within the ERG (European Regulators' Group). The same capped liability should apply to the Confidentiality set forth in Clause 8.7.

3. SLAs.

Delivery time: BCC acknowledges a recent improvements in delivery times from the very poor situation its members faced in 2008 (much more than 60 days in many cases for leased lines up to 2 Mbit/s), but still urges the EETT to shorten the guaranteed net delivery time for leased lines, which is currently one of the worst in the European Union. Also, BCC members would welcome the introduction of an Expedited Process for faster installation, even at an extra cost where the delivery time is met.

Fault management and repair process: The rules regarding the fault management and repair process should be reviewed and improved in the RIO. Currently, in the case of a fault or an outage, OTE does not inform its wholesale customers of the specific reason for that fault or outage, and also does not provide a report on the status of repairs on such outages. OTE will only state whether such a fault exists on its side of the network, and OTE will work to restore a fault only between the hours of 07:30 a.m. to 03:30 p.m. on business days, and is rarely able to organize an on-site intervention for any incident past noon time. This may be acceptable for retail customers, but is not compatible with a wholesale customer requirements. Consequently, carriers have experienced long and ineffective repair processes that do not comport with current international standards. BCC therefore encourages the EETT to bring the RIO fully in line with the requirements of a wholesale offer.

Penalty System: BCC would like to point out that the associated penalties for delivery times are not enforceable, due to the RIO requirement to provide forecasts by reference to concentration points. Due to the very nature of international business, BCC members are *unable* to develop reliable forecasts in the manner sought by OTE. These forecasts should be waived for low volume requirements, and set by reference to a threshold. This issue, and the maintenance of other penalty provisions, are critical points for business customers and are provided as standard leased line offerings in other countries.

Accordingly, BCC encourages the EETT to pay all of these above matters its urgent consideration. In the context of leased line provisioning, it is all these non-price factors that are highly relevant to the ability of an international service provider to compete for business customers and to provide them with the international connectivity which they require; there is no reason why Greece should be a "black spot" in these business customers' international telecommunications expectations. BCC will make itself available to discuss this submission further with the EETT, and the issues arising from the matters discussed, as soon as possible.

Respectfully submitted this 20th of July 2009 by BCC – Business Carrier Coalition

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