[DE] “Unbundled Access” to the Local Loop

IRIS 2001-6:1/28

Carmen Palzer
Institute of European Media Law (EMR), Saarbrücken/Brussels

Following two rulings announced by the Bundesverwaltungsgericht (Federal Administrative CourtBVerwG) on 25 April 2001, Deutsche Telekom AG (DTAG) is now obliged to provide its competitors in the market for telecommunications services for the public with "unbundled access" to the local loop. DTAG must therefore ensure that its competitors have access to the copper or fibreglass cable without bundling it with other services.

In both appeal hearings, the Court examined the legitimacy of the intervention by the then Federal Ministry for Post and Telecommunications (BMPT) which, as the regulatory authority for post and telecommunications (RegTP) until 31 December 1997 (see Section 98.1 of the Telekommunikationsgesetz (Telecommunications ActTKG)), took action against DTAG as part of its duty to monitor abuses, in accordance with Section 33.2 (in connection with Section 33.1) of the Act. DTAG had offered its competitors access to the local loop only in conjunction with transmission hardware that modified data throughput by channelling data or restricting capacity. Its competitors, on the other hand, had asked DTAG to provide access to the cable without forcing them to use additional transmission equipment. The BMPT had therefore requested that DTAG refrain from this abuse of its dominant market position and that it should grant its competitors' request for unbundled access. DTAG had appealed against these decisions and now, through the Administrative Court rulings, the BMPT's actions have finally been vindicated. The Court confirmed that DTAG was dominant in the important markets for telecommunications services for the public and was the only company to own a comprehensive subscriber network covering the whole of Germany. On account of its dominant position, it was obliged to guarantee its competitors access to the local loop so that they were free to use it for commercial purposes to provide telecommunications services for the public under the same conditions that applied to DTAG itself (see Sections 33.1, 35.1, 35.2 and 35.5 of the Act in conjunction with Article 2 of the Verordnung über besondere Netzzugänge (Decree on Special Network Access - NVZ)).

Urteile des Bundesverwaltungsgerichts, BVerwG 6 C 6 und 7.00 vom 25. April 2001

Rulings of the Federal Administrative Court, BVerwG 6 C 6 und 7.00 of 25 April 2001

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026