



To: Jose-Manuel Barroso, President, European Commission

Cc: Neelie Kroes, Commissioner  
Viviane Reding, Commissioner

7 April 2009

Dear President Barroso,

**Re: Next Generation Access (NGA) Recommendation**

The International Telecommunications Users Group (INTUG) represents the interests of major business users of telecommunications throughout the EU. These include some of the world's largest financial institutions, car manufacturers, pharmaceutical companies, fast moving consumer goods enterprises, and retail and distribution companies.

The INTUG community includes user associations in many large Member States, including Belgium, Denmark, France, Germany, Italy, Spain, the Netherlands, Sweden and the UK, and the multinational user group EVUA. Each group represents large public and private customers of telecoms operators, both directly and indirectly through service providers.

INTUG was established in 1974, and has links to user groups throughout the world as diverse as Australia, New Zealand, India, Mexico, Korea and South Africa. INTUG has permanent observer status at the ITU and is also an expert group within the OECD. INTUG engages actively with the European Commission and Members of the European Parliament, and has made submissions to many EU regulatory consultations and events.

Supply chains of business users of telecommunications represent 35% of the EU economy. This application of telecommunications creates investment, innovation, economic growth, social welfare and employment, in support of the Lisbon i2010 goals. The Single Market is therefore best served by a competitive seamless market in telecommunications at national and international level, which facilitates effective investment in ICT.

The wording of the Commission's imminent NGA Recommendation will have a profound impact on the ability of business users to obtain the European network services they need to compete effectively in world markets. This is of particular importance in the current recessionary environment. The inbuilt inefficiency of the current fragmented patchwork of national European telecom markets is no longer acceptable. The NGA recommendation provides a tremendous opportunity to revitalise the telecommunications environment.

It is therefore with great alarm that we hear of the demands by some incumbent operators for protectionist waivers of regulation to enable them to escape fair competition. This has been variously presented by a range of mechanisms, such as duct-sharing, multi-fibre schemes, risk sharing and "co-operative arrangements". Whilst none of these should be rejected since they represent specific technical mechanisms for theoretically implementing a solution, they must not be viewed as a substitute for regulated access obligations. Nor should such co-operative arrangements be viewed as evidence of a competitive market.

Schemes without in-built incentives for an incumbent to agree on any reasonable terms, are nothing less than “regulatory holidays” by another name. These exemptions have already been rejected by the European Parliament, and by the Council of Ministers, and are currently under legal challenge by the European Commission. It would be dangerous to assume that the proposed words of the NGA Recommendation could not be interpreted to allow regulatory holidays, nor that they could avoid court proceedings.

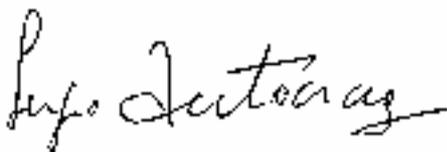
The European Commission might find it was publishing an NGA recommendation, which undermined its own proceedings against at least one Member State regarding access obligations, and its reactions to approaches in many other Member States.

The NGA Recommendation will be a first major test of the Framework Review, and there is now a danger that it could have the unintended consequence of redefining the competition rules in the Telecommunications Sector, and how market analyses are to be conducted.

Europe’s business users desperately need seamless open access to high-speed business class symmetrical broadband services, in all the locations where they operate, and from wherever they provide services to their wholesale and retail supply chain customers, and ultimately to the citizen consumers.

We urge you, in your role as President of the Commission, to ensure that the wording of the NGA Recommendation clearly demonstrates the recent G20 commitment to maintain open and competitive markets, and equally clearly rejects temptations to protectionism.

Yours sincerely



Sergio Antocicco  
Chairman, INTUG



Nick White  
Executive Vice President, INTUG

EU Member Groups consulted:

BELTUG (Belgium), Dansk IT (Denmark), AFUTT (France), TELECOM e.V. (Germany), ANUIT (Italy), BTG (Netherlands), AUTELSI (Spain), NTK (Sweden), CMA (UK), EVUA