

Competition Distortion in the German Local Access Market

Public Hearing Unbundled Local Loop, Brussels, July 8th 2002

Content

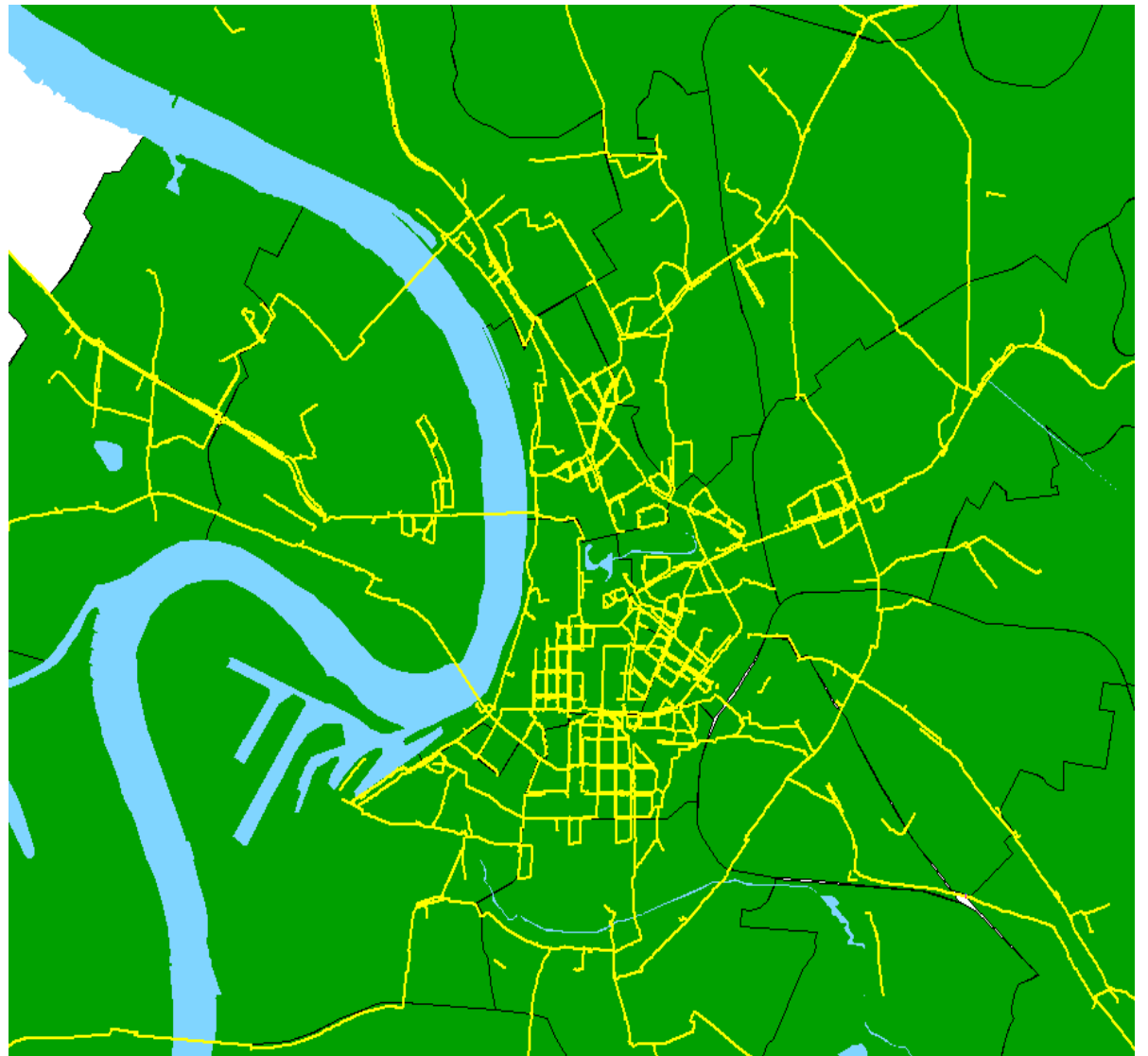
1. Squire, Sanders & Dempsey, Additional Aspects
2. CLEC Vision of Broadband Access Roll Out
3. Information Refusal
4. Usage Restrictions
5. Excessive Pricing
6. Price Squeeze

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Network Roll Out Will Migrate over Time to Cover the Complete Area

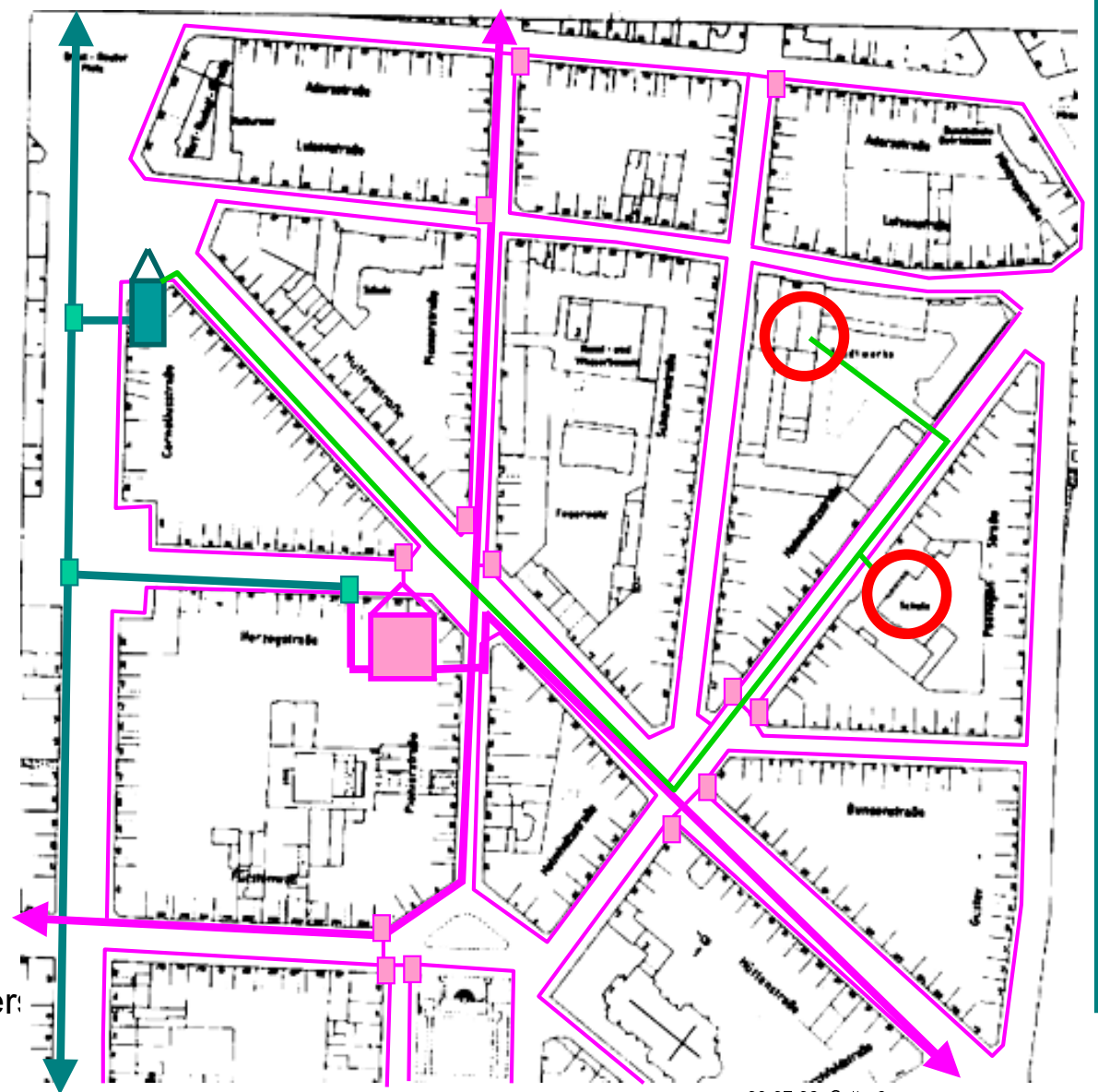
- Switch and some Leased Lines/ Fibers
Some Direct Fiber Access Links to
Large Business Customers
- Leased Lines/ Fibers to Collocation
Areas, More Direct Fiber Access Links
- More Direct Fiber Access Links, FTTC
Solutions, Substitution of Leased
Lines
- New Fiber Based Products (e.g. CATV,
Ethernet Links, ...) enlarge Fiber
Density, More FTTC Solutions ...
- Some 10 Years Later ... FTTH
Everywhere



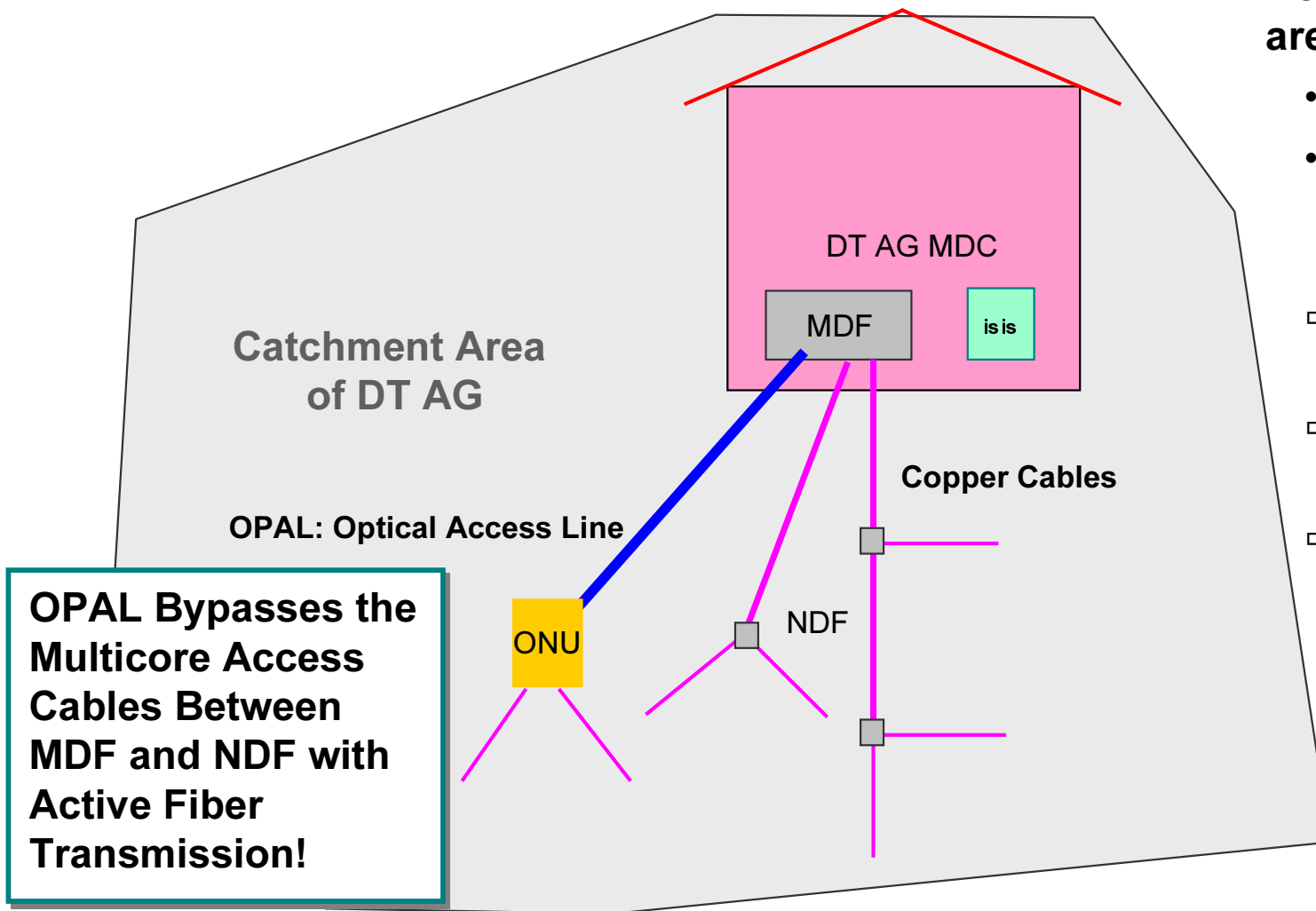
Already existing Starpoints (MDF, NDF) of the Incumbent's Wire Access Network Could Be Used for Unbundled Local Loop Access, but ...

... the Incumbent Enforces Additional Spaces to Rent and Withholds Access Network Structure Information

-  Incumbent's Main Distribution Frame
-  Competitor's Main Distribution Frame
-  Node Distribution Frames
-  Node Distribution Frames
-  Main Cable
-  Distribution/ Access Cable
-  Competitor's Direct Fiber Access Customer



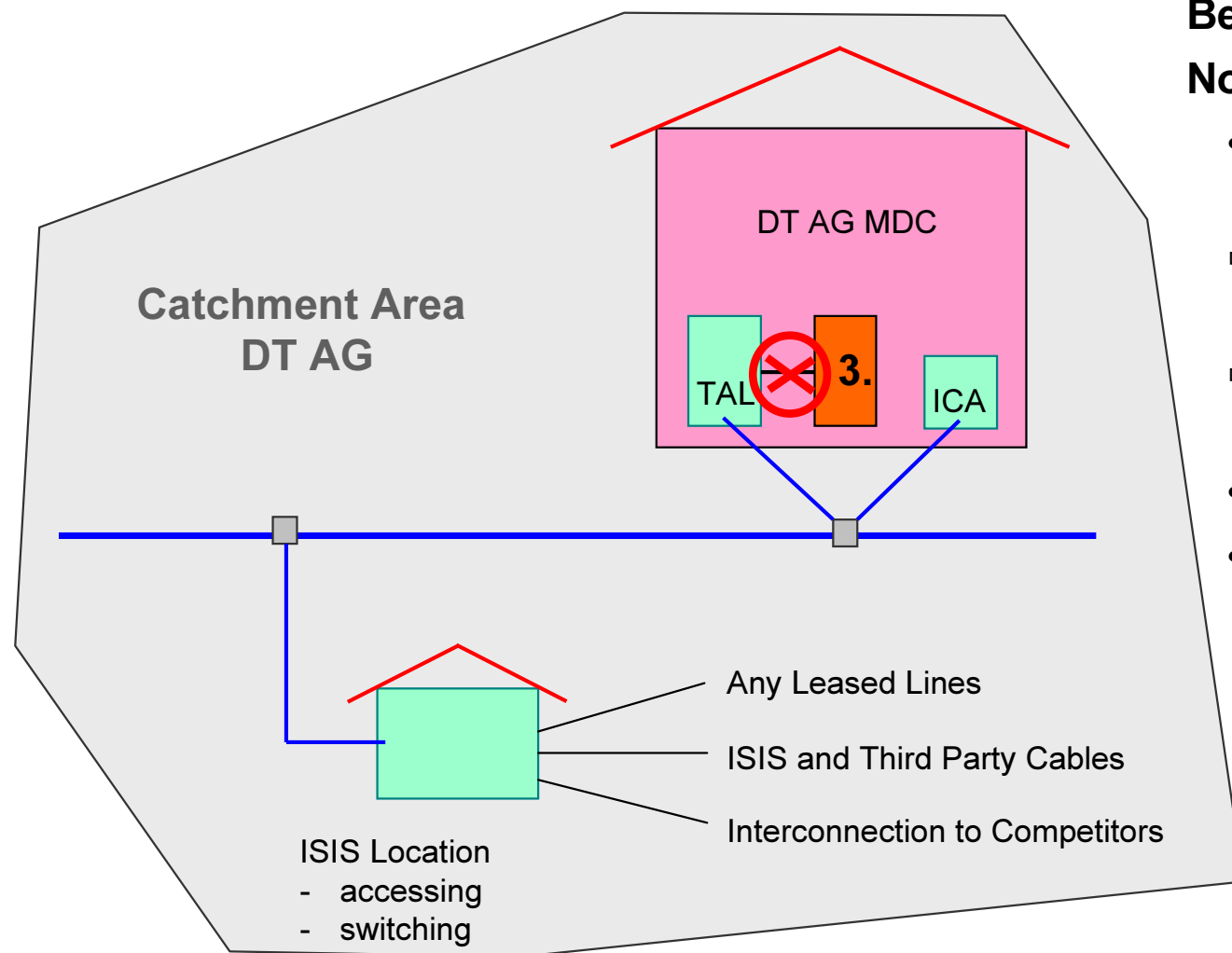
Information of the Incumbent's Access Network Structure is Withhold - No or Inefficient Alternative Investments are the Result



Details of the Access Networks are not Published:

- NDF/ ONU Coordinates
 - Exact Catchment Area of a NDF/ ONU, Streets and House No.
- ⇒ Network Planning Impossible
- ⇒ Collocation on NDF-Layer Impossible
- ⇒ Competitive VDSL Impossible

Usage Restrictions in the Collocation Areas Force Competitors to Build up to Three Times More Locations as Effectively Necessary



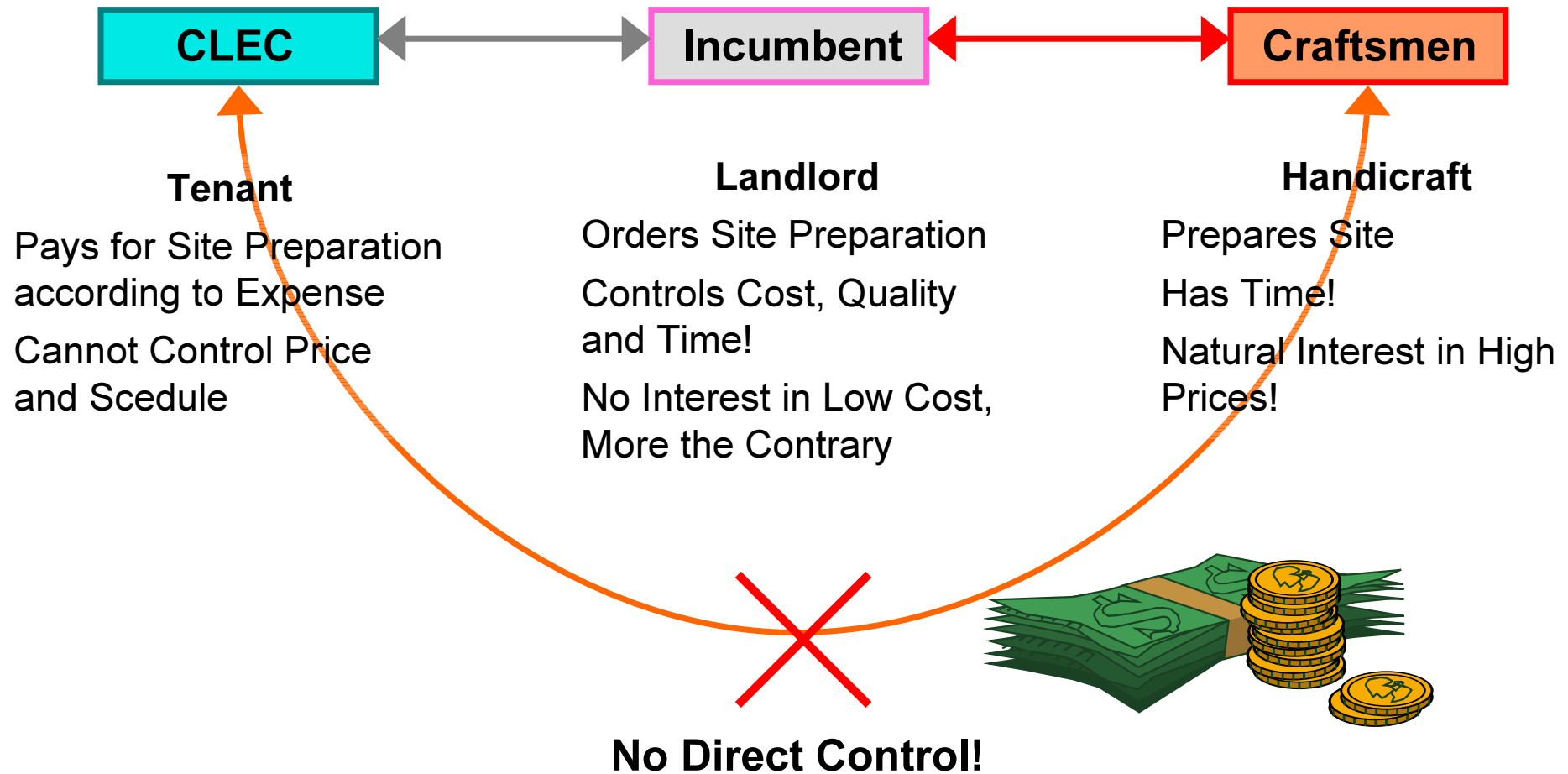
The Collocation Areas May Only Be Used for TAL resp. ICA.

Not Allowed Are e.g.:

- Connections to Third Party Collocation Areas
- ⇒ Competitors Cannot Share MDC Access
- ⇒ Less Network Interconnectivity
- Switching/ Routing
- Termination of Leased Lines for Customer Access

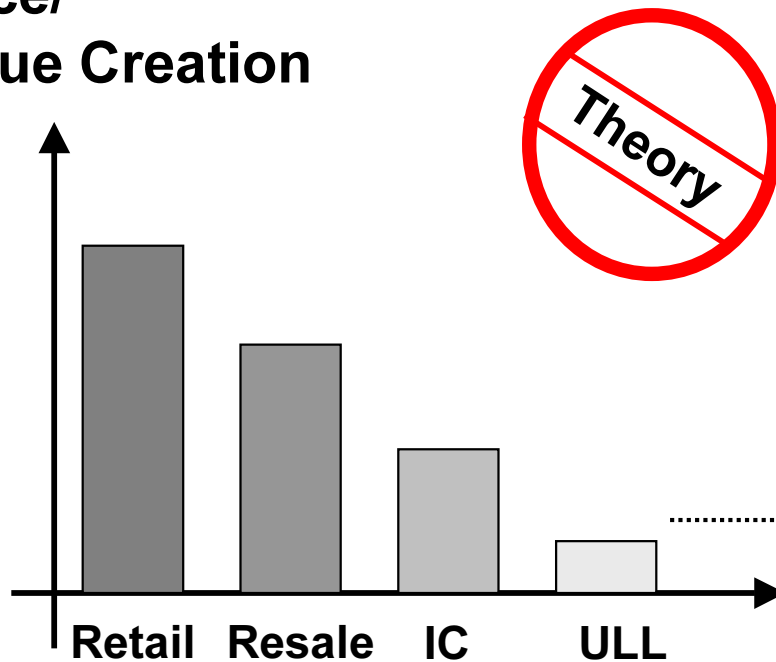
In One Catchment Area Competitors Have to Build up to Three Locations, the Incumbent DT AG Only Has One!

Excessive Pricing Let Cost for Site Preparation Explode in the Case of Collocation

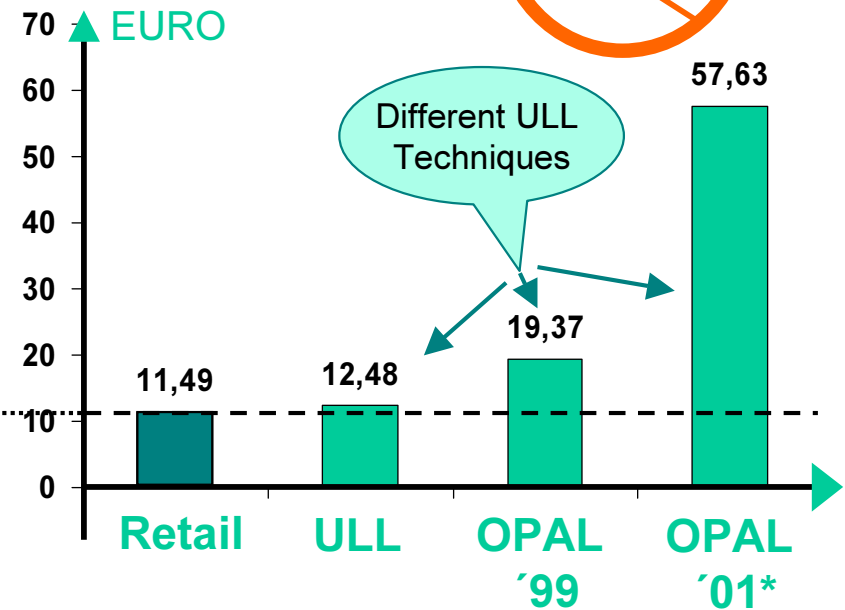


Price Regulation Has to Be Ballanced According to the Different Value Creation Steps, Price Squeeze Has to Be Banned

Price/ Value Creation



Prices in Germany



**Non Ballanced Prices Cause Market Distortions,
Senseless Investments and a
Distorted Value Creation without Future**

* not yet Approved by RegTP

Monthly Rental for an
Analogue Telephone resp. the
Unbundled Preproducts of
DT AG

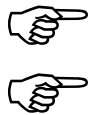
Backup



Competition in the Local Access in Europe is Distorted by a Wide Set of Obstacles of the Incumbents

Tariff and Cost Related Issues

- Discriminatory Prices
- Excessive Prices
- Predatory Pricing/ Price Squeeze



Behavioural Obstacles

- Refusals to Supply
- Unjustifiable Delays
- Discriminatory Terms of Provision (incl. Inferior Quality)
- Tying (Unjustifiable Bundling of Services)
- *Usage Restrictions*



Source: Squire, Sanders & Dempsey L.L.P., Legal Study on Part II of the Sectoral Enquiry, European Commission Contract No. Comp. IV/37.640, Brussels, February 2002, http://www.europe.eu.int/comm/dgs/competition/index_en.htm

Competitive Local Exchange Carriers (CLEC) Offer a Wide Spectrum of Products

CLECs in Germany Cover an Urban, Suburban and Surrounding Rural Area

(e.g. ISIS Covers the Administrative District of Düsseldorf with approximately 5 Mio. Inhabitants, Cities of Düsseldorf, Duisburg, Essen, Krefeld, Mönchengladbach, Neuss, ...)

A CLECs Cannot Be Everywhere from the Beginning and Needs Regulatory Support to Establish Sustainable Local Access Competition

Regulatory Measures

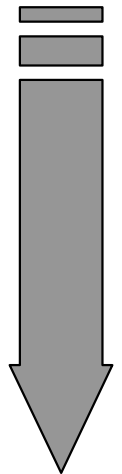
- Resale,
- Call by Call, Preselection, Interconnection
- Unbundled Access, Collocation
- Rights of Way for Direct Customer Access (Fiber, FTTC, CATV, WLL, ...)

Offered Access Products

- Telephony and Narrowband Data
- Telephony and Narrowband Data (≤ 2 Mbit/s)
- Telephony, DSL, Leased Lines
- Multimedia, Broadband Data and Leased Lines, Unlimited Bandwidth

Value Chain

- Sales and Billing
- Switch and WAN, Network Operating
- Local Infrastructure to MDC
- Products free of Incumbent's Infrastructure



The Additional Sites Cause Additional Network Structure Cost

Site Preparation and Rental Fee

- **Technical Installations** (UPS, SDF, Trays, Monitoring, ...)
- **Construction** (Door, Wall, Painting, Air Condition, ...)
- **Adminstration** (Contract Management, Access Management, Space Admin., Documentation)

Network Nodes

- **Smaller, separate Nodes**
- **Less Price Degression of Size**

Fiber Access

- **Additional Access Links**

Network Planning and Operating

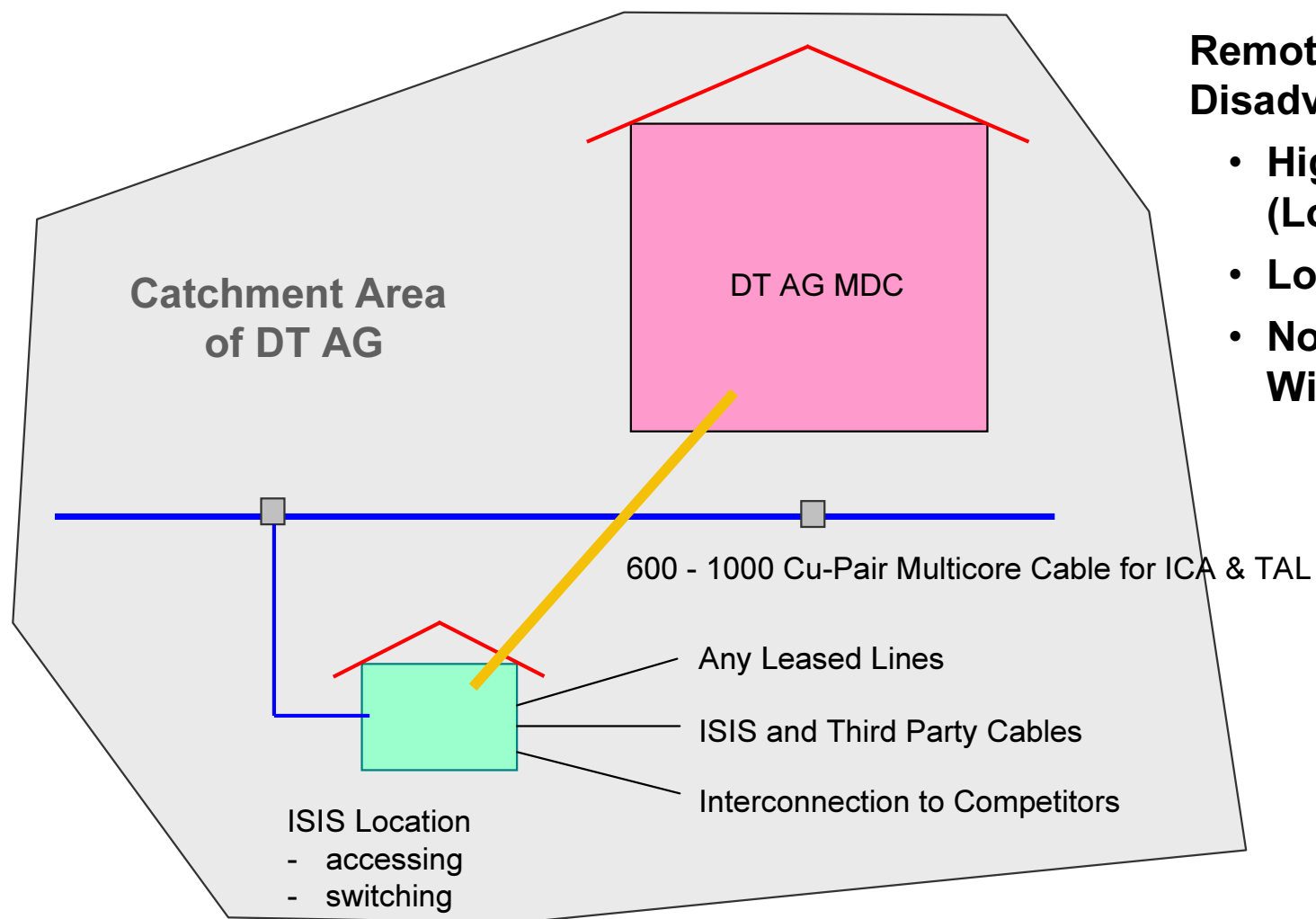
- **More Complex Network Structure**
- **Documentation**

**Additional Access
Network Cost Increase
by More than**

80 %

**and Decrease over
Time with Growing
Market Share**

Remote Collocation Would Reduce the Amount of Locations and Therefore is One Solution Path out of the Dilemma of Usage Restriction for Collocation Areas



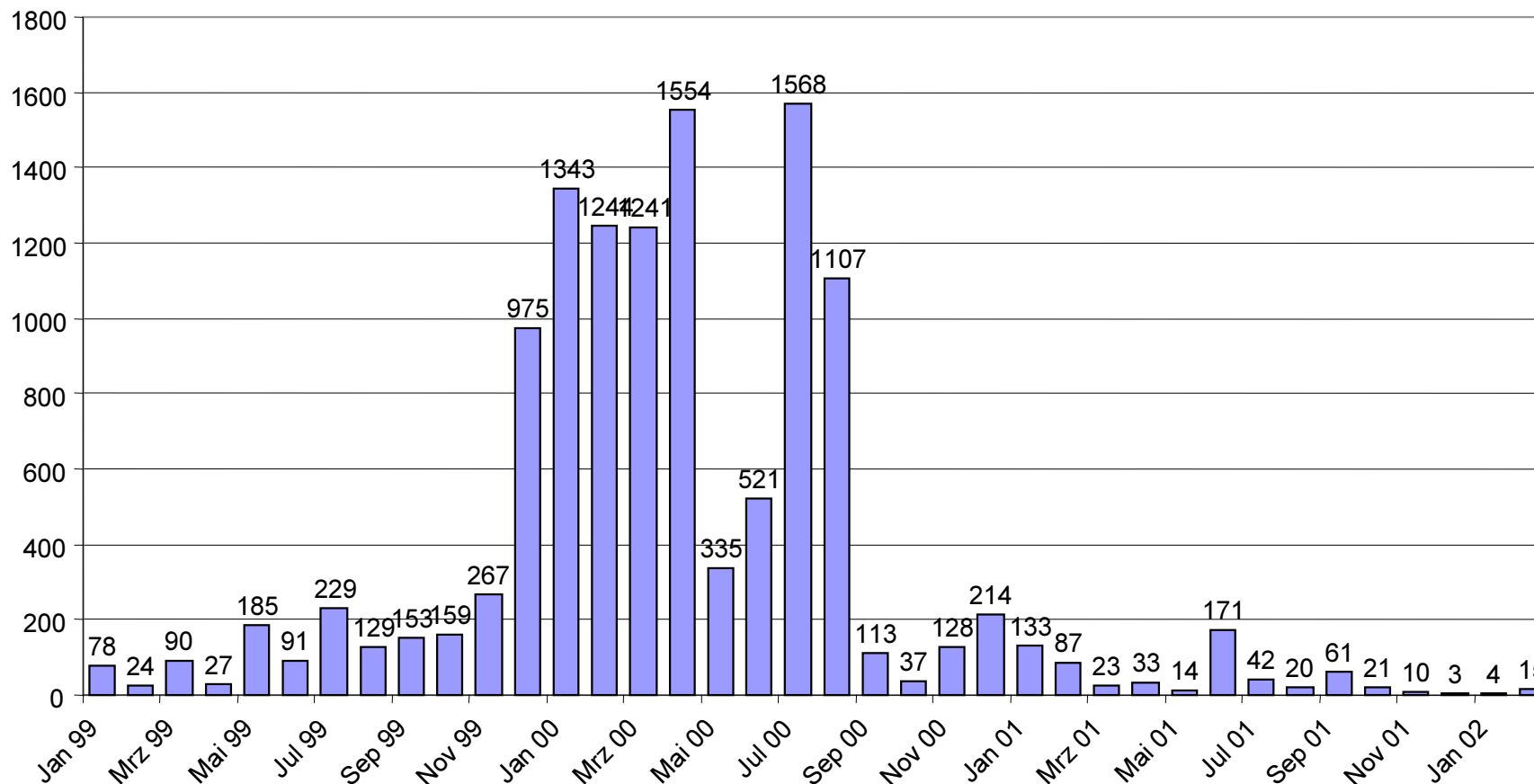
Remote Collocation Disadvantages:

- High Connection Cost (Location Cost Savings)
- Longer Access Line (TAL)
- No Effective Fault Clearing Without Access to the MDF

Each Catchment Area Only Needs One Location!
Remote Collocation as a Competitive Challenge?

The Collocation Activities of Competitors Are Stopped and many of them inbetween Got Insolvent

Orders for Collocation Spaces



(Source: RegTP BK 3e-02/002)

Effective Regulation Would Diminish Competition Distortion and Discrimination by:

Removing Usage Restrictions:

(Connection of all Customers, No Dedicated Locations, Switching)

Implementing Remote Collocation

Direct Time and Cost Control of Site Preparation for the Tenant

Enforcing the Provision of Access Network Structure Information

Shortening Negotiations by Active Shaping of Reference Orders in Time

Balancing Prices According to the Value Chain