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Institut Belge des Poste et
Télécommunications (IBPT)

35 Boulevard du Roi Albert II
B-1030 Brussels
Belgium

For the attention of:
Mr Luc Hindryckx
Président du Conseil

Fax: +32 2 226 88 41

Dear Mr Hindryckx,

Subject: Commission decision concerning Case BE/2011/1276: Details of remedies concerning the market for wholesale broadband access in Belgium

Article 7(3) of Directive 2002/21/EC:¹ No comments

I. PROCEDURE

On 24 November 2011, the Commission registered a short notification from the national regulatory authority of Belgium, the Belgian national regulatory authority, the *Institut Belge des Services Postaux et des Télécommunications* (IBPT), concerning technical details of the implementation of the previously imposed obligation to use the Customer Premises Equipments (CPE) of alternative operators on the incumbent's network.

The national consultations² ran from 1 March 2011 to 10 May 2011. The deadline for the EU consultation under Article 7 of the Framework Directive is 3 January 2012.

Pursuant to Article 7(3) of the Framework Directive, national regulatory authorities (NRAs), BEREC and the Commission may make comments on notified draft measures

¹ Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services, OJ L 108, 24.4.2002, p. 33, as amended by Directive 2009/140/EC (Better Regulation Directive), OJ L 337, 18.12.2009, p. 37, and Regulation (EC) No 544/2009, OJ L 167, 29.6.2009, p. 12 (Framework Directive).

² In accordance with Article 6 of the Framework Directive.

to the NRA concerned.

II. DESCRIPTION OF THE DRAFT MEASURES

II.1. Background

Under case BE/2011/1228 IBPT consulted its second review of the market for wholesale broadband access (WBA) confirming that the bitstream remedy provides access seekers with a fully fledged active product, which allows alternative operators sufficient possibilities to differentiate their products at retail level. In this context the Belgian regulator explained that the WBA VDSL2 offer allows *inter alia* for (i) interconnection at different levels (local and regional), (ii) the flexible allocation of virtual local access networks, (iii) the ability to differentiate quality of service levels, service speeds and service symmetry, (iv) the control of customer premises equipment, and (v) support for the multicast functionality.

II.2. The notified draft measure by way of a short form

The current notification concerns the review of the technical details of the implementation of the previously imposed obligation to use the CPEs (i.e. modems) of alternative operators on the incumbent's network, previously consulted with the Commission under case number BE/2011/1228.

These additional technical conditions are necessary to ensure that the introduction of the CPEs of alternative operators on the incumbent's network will not jeopardize the proper functioning of the latter, the integrity of its network and its evolution. It also defines the respective responsibilities of the incumbent and the alternative operators regarding the CPE. Finally, IBPT has aimed to ensure that alternative operators do not have to comply with unnecessary or disproportionate conditions to put their own CPEs in place.

III. NO COMMENTS

The Commission has examined the notifications and has no comments.³

Pursuant to Article 7(7) of the Framework Directive, IBPT may adopt the draft measure and, where it does so, shall communicate it to the Commission.

The Commission's position on this particular notification is without prejudice to any position it may take *vis-à-vis* other notified draft measures.

Pursuant to Point 15 of Recommendation 2008/850/EC⁴ the Commission will publish this document on its website. The Commission does not consider the information contained herein to be confidential. You are invited to inform the Commission⁵ within three

³ In accordance with Article 7(3) of the Framework Directive.

⁴ Commission Recommendation 2008/850/EC of 15 October 2008 on notifications, time limits and consultations provided for in Article 7 of Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services, OJ L 301, 12.11.2008, p. 23.

⁵ Your request should be sent either by email: INFSO-COMP-ARTICLE7@ec.europa.eu or by fax: +32 2 298 87 82.

working days following receipt whether you consider that, in accordance with EU and national rules on business confidentiality, this document contains confidential information which you wish to have deleted prior to such publication⁶. You should give reasons for any such request.

Yours sincerely,
For the Commission,
Robert Madelin
Director-General

⁶ The Commission may inform the public of the result of its assessment before the end of this three-day period.