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Institut belge des services postaux et
des télécommunications (IBPT)
Ellipse Building - Bâtiment C, 35
Boulevard du Roi Albert II
B-1030 Bruxelles
Belgium

For the attention of:
Mr. Jack Hamande
Président du Conseil

Fax: +32 2 226 88 41

Dear Mr Hamande,

Subject: Commission Decision concerning Case BE/2015/1714: Wholesale high-quality access provided at a fixed location in Belgium – NGLL reference offer addendum

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

1. PROCEDURE

On 20 February 2015, the Commission registered a notification from the Belgian national regulatory authority, *Institut belge des services postaux et des télécommunications* (IBPT)¹, concerning wholesale high-quality access provided at a fixed location² in Belgium (NGLL reference offer).

The national consultation³ ran from 9 December 2014 to 6 January 2015.

¹ Under Article 7 of 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 (Framework Directive), OJ L 108, 24.4.2002, p. 33, as amended by Directive 2009/140/EC, OJ L 337, 18.12.2009, p. 37, and Regulation (EC) No 544/2009, OJ L 167, 29.6.2009, p. 12.

² Corresponding to market 4 in Commission Recommendation 2014/710/EU of 9 October 2014 on relevant product and service markets within the electronic communications sector susceptible to ex ante regulation in accordance with Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services (Recommendation on Relevant Markets), OJ L 295, 11.10.2014, p. 79.

³ In accordance with Article 6 of the Framework Directive.

On 26 February 2015, a request for information⁴ was sent to IBPT and a response was received on 3 March 2015.

2. DESCRIPTION OF THE DRAFT MEASURE

2.1. Background

The second round analysis of the market for terminating segments of leased lines⁵ was notified to and assessed by the Commission under case BE/2013/1474. The IBPT included in the relevant product market partial circuit terminating segments and backhaul terminating segments, irrespective of bandwidth and either with traditional interface or next generation leased line (NGLL) interface, both of which use the same optical infrastructure (fibre or wavelength).

Belgacom was designated with SMP. The IBPT proposed to maintain the following obligations on Belgacom: access and interconnection, non-discrimination, transparency, accounting separation, price control and cost accounting.

The Commission urged the IBPT *inter alia* to closely monitor technological developments, investments by the alternative and incumbent operators, competitive conditions, and uptake of lower bandwidth services *vis-à-vis* higher bandwidth services, and to review the assessment of the wholesale terminating segments of leased lines market accordingly, as soon as national circumstances warrant this.

In July 2014, IBPT notified the Commission of a modification of remedies relative to non-price related, technical aspects to the SMP operator's reference offer for terminating segments of leased lines (BROTSoLL)⁶. The Commission did not have any comments. In February 2015, IBPT notified the Commission of a modification of remedies relative to the access to manholes.⁷ The Commission did not have any comments.

2.2. Proposed measures

The current decision proposes an addendum to the BROTSoLL concerning the tariffs for the provision of NGLL lines, as well as adaptations to the qualitative aspects of the reference offer.

IBPT explains that NGLL tariffs are determined in part by the NGN/NGA cost model used also for the wholesale broadband access market. In this respect, IBPT considers that the transportation tariff component in the NGLL case must be identical to the Ethernet transport rates of bitstream as defined in a previous

⁴ In accordance with Article 5(2) of the Framework Directive.

⁵ Corresponding to market 6 in the previous Commission Recommendation 2007/879/EC of 17 December 2007 on relevant product and service markets within the electronic communications sector susceptible to ex ante regulation in accordance with Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services (2007 Recommendation on Relevant Markets), OJ L 344, 28.12.2007, p. 65.

⁶ Case BE/2014/1640.

⁷ Case BE/2015/1698.

decision relating to the pricing of the Wholesale Multicast and Ethernet transport for BROBA and WBA VDSL2 offers.⁸

IBPT also proposes other amendments to the reference offer, such as the addition of a 100% P-Bit 5 profile. Further to that, the SMP operator must extend the connection of the aggregation points of the alternative operators to 10 Gbps, through **STEPS OF 1GBPS**.

3. NO COMMENTS

The Commission has examined the notification and the additional information provided by the IBPT and has no comments.⁹

Pursuant to Article 7(7) of the Framework Directive, the 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/EC¹⁰ 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 Commission¹¹ within three 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 publication.¹² You should give reasons for any such request.

Yours sincerely,

For the Commission,
Robert Madelin
Director-General

⁸ All the tariffs are set for different products (with different speeds) in an annex to the IBPT's main notification.

⁹ In accordance with Article 7(3) of the Framework Directive.

¹⁰ 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.

¹¹ Your request should be sent either by email: CNECT-ARTICLE7@ec.europa.eu or by fax: +32 2 298 87 82.

¹² The Commission may inform the public of the result of its assessment before the end of this three-day period.