



EUROPEAN COMMISSION

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Institut Belge des Poste et
Télécommunications (IBPT)

35 Boulevard du Roi Albert II
B-1030 Bruxelles

For the attention of:
Mr Luc Hindryckx

Fax: +32 2 226 88 41

Dear Mr Hindryckx

Subject: Commission Decision concerning Case BE/2012/1362: Market for Wholesale Broadband Access in Belgium – Change to Reference Offer

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

I. PROCEDURE

On 21 August 2012, the Commission registered a short notification from the Belgian national regulatory authority, the *Institut Belge des Poste et Télécommunications* (IBPT)¹, concerning a change to the reference offer in the market for wholesale broadband access² in Belgium.

The national consultation³ ran from 29 May to 15 June 2012.

On 29 August 2012, a request for information⁴ was sent to IBPT and a response was received on 3 September 2012.

Pursuant to Article 7(3) of the Framework Directive, national regulatory authorities

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 (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 5 in 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 (Recommendation on Relevant Markets), OJ L 344, 28.12.2007, p. 65.

³ In accordance with Article 6 of the Framework Directive.

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

(NRAs), the Body of European Regulators for Electronic Communications (BEREC) and the Commission may make comments on notified draft measures to the NRA concerned.

II. DESCRIPTION OF THE DRAFT MEASURES

II.1. Background

The market for wholesale broadband access in Belgium was previously notified to and assessed by the Commission under case BE/2011/1228⁵. In this case IBPT set out its second round review of the market for wholesale broadband access (WBA) and confirmed that the proposed 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. In particular, with regard to the importance of providing multiple play offers in Belgium⁶, the Belgian regulatory authorities considered that a multicast functionality, which allowed alternative operators to offer TV services constituted an essential element in the provision of competitive bundled offers. However, at the time it was granted that Belgacom may propose a wholesale service constituting an alternative to the multicast functionality, which would then be assessed by the Belgian regulator.

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

The current short form notification now introduces such an alternative to the multicast functionality as foreseen in the previous market analysis. In detail, IBPT proposes that the SMP operator may, instead of the multicast functionality for Bitstream, provide a so-called IPTV platform sharing capacity and that this change needs to be reflected in the reference offer⁷.

III. NO COMMENTS

The Commission has examined the notification and the additional information provided by IBPT and has no comments.⁸

Pursuant to Article 7(7) of the Framework Directive, IBPT may adopt the draft measure

⁵ See C(2011) 4535 final of 20.6.2011.

⁶ The demand for bundled offers comprising broadband and digital TV services is growing exponentially.

⁷ In general, the Bitstream reference offer needs to contain at least the following information: (i) technical conditions and tariffs for Bitstream access; (ii) Collocation services; (iii) conditions for access to of IT Systems (operational support systems, information systems or databases for pre-order, provisioning, billing maintenance and repair etc.); (iv) delivery conditions; (v) technical restrictions; (vi) Service Level Agreements; and (vii) migration of end-users. The new reference offer has to be changed to include provisions on issues specific to the IPTV platform sharing offer, such as fast channel zapping & retransmission, ability for catch-up services, coverage of SD/HD services, transparency regarding the evolution of the offer (including changes to the channel list, adjustments, which could affect the use of hardware/decoders etc.) and issues around activation and lead times.

⁸ In accordance with Article 7(3) of the Framework Directive.

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/EC⁹ 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 Commission¹⁰ 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.¹¹ You should give reasons for any such request.

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

⁹ 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.

¹⁰ Your request should be sent either by email: CNECT-ARTICLE7@ec.europa.eu or by fax: +32 2 298 87 82.

¹¹ The Commission may inform the public of the result of its assessment before the end of this three-day period.