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

For the attention of:
Mr. Michel Van Bellinghen
Président du Conseil

Fax: +32 2 226 88 41

**Subject: Case BE/2020/2254: Amendments of the Reference Offer concerning
Market 1 - Wholesale call termination on individual public telephone
networks provided at a fixed location**

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

Dear Mr Van Bellinghen,

1. PROCEDURE

On 18 June 2020, the Commission registered a short form notification from the Belgian national regulatory authority, *Institut belge des services postaux et des télécommunications* (IBPT)¹, relating to Proximus' Reference Offer regarding IP interconnection for VoIP services. This draft measure is implementing remedies which

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.

were imposed on Proximus on the market for wholesale call termination on individual public telephone networks provided at a fixed location.

The Commission sent a request for information² to IBPT on 25 June 2020, and received a reply on 30 June 2020.

The national consultation³ ran from 3 February 2020 to 28 February 2020.

2. DESCRIPTION OF THE DRAFT MEASURE

2.1. Background

The market for wholesale call termination on individual public telephone networks provided at a fixed location in Belgium was previously notified to and assessed by the Commission under case BE/2018/2117⁴.

The relevant product market included: (i) call termination provided at fixed locations to geographic numbers, emergency numbers and 078 irrespective of the origin of the call or the technology used; (ii) call termination independent from the level of network at which the operators are interconnected, i.e. termination may consist in regional (intra-area) and national (extra-area) termination.

The relevant geographic markets coincided with the coverage area in which each operator provides a fixed call termination service (within the territory of Belgium).

Based on market shares, lack of countervailing buyer power, entry barriers and market concentration, IBPT designated 27 operators as having SMP in their relevant markets.⁵

IBPT imposed on all SMP operators the following remedies: (i) access and interconnection obligations⁶; (ii) non-discrimination; (iii) transparency⁷; and (iv) cost-oriented price control⁸.

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

³ In accordance with Article 6 of the Framework Directive.

⁴ C(2018) 7397

⁵ The designated SMP operators: Proximus NV (including Scarlet Belgium NV); 3Stars Net NV; Belgian Telecom (Centrea CVBA); 3BILLI BVBA (Favco); Brutélé S.C. Nethys (VOO); BT Ltd; COLT Technology Services NV; Destiny NV; Dialoga Servicios Interactivos S.A.; EDPnet NV; Hexios BVBA; Intellinet BVBA; IP Nexia NV; Join Experience Belgique; LCR Telecom NV; Orange Belgium; Orange Business Belgium NV; OVH sas; Schedom NV; SORS Europe BVBA; United Telecom NV; Telenet Group BVBA (more specifically Telenet BVBA and Coditel SPRL); TeleVoIP BVBA Verizon Business NV; Voxbone NV; Weepee NV; X2COM Belgium BVBA.

⁶ This includes the obligation to interconnect with third operators using an internet protocol (IP) on a pair of redundant interconnection points (1+1).

⁷ Transparency measures proposed for all SMP operators include the communication of information regarding tariff changes, service plans and of access and interconnection agreements.

⁸ The termination of calls outside the EEA is not subject to price regulation and can be set on the basis of bilateral commercial negotiations.

IBPT also imposed specific transparency measures on Proximus only, including the publication/communication of: a Reference Offer (including IP interconnection); adaptations of wholesale offers to network or IT developments; infrastructural changes having an impact on the interconnection service; quality indicators; plans for the introduction of an NGN architecture; the closing of interconnection points⁹.

Proximus was also subject to a cost accounting obligation.

The Commission did not comment on these measures.

2.2. The draft measured notified by way of short form

Subsequently to the IBPT's decisions concerning market 3a and 3b, Proximus has transmitted to IBPT a reference offer for IP interconnection. IBPT has analysed this reference offer and has requested the following modifications:

- 10 Gbps Ethernet interfaces must be provided;
- Test phase charges cannot be imposed based on a lump sum.

The decision confirms that no extra charge can be applied for the SIP trunks relative to fixed call termination. The decision also states that Proximus is not obliged to propose interconnection from an IPv4 based network in its reference offer. IBPT has explained in its draft decision and in its answer to the Commission's RFI that Proximus offers interconnection based on IPv6 which is a more future-proof technology and that interconnection based on TDM will be available for a period long enough for alternative operators to migrate to IPv6.

Proximus should submit to IBPT a modified proposition for its reference offer taking into account IBPT's decision within 30 days after the decision's publication.

3. NO COMMENTS

The Commission has examined the notification and the additional information provided by IBPT and has no comments.¹⁰

Under 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 on other notified draft measures.

Pursuant to point 15 of Recommendation 2008/850/EC¹¹ the Commission will publish this document on its website. If IBPT considers that, in accordance with EU and national rules

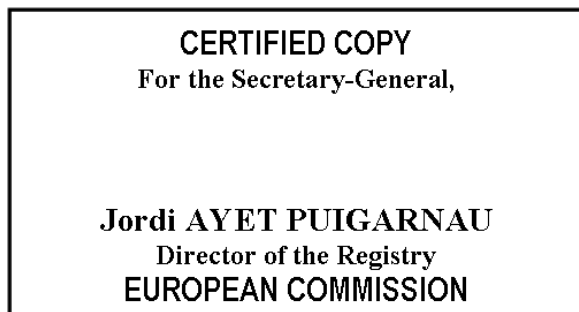
⁹ The other SMP operators will be subject to lighter requirements, namely the obligation to publish termination rates and the obligation to provide contractual, accounting and technical information.

¹⁰ In accordance with Article 7(3) of the Framework Directive.

¹¹ 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.

on business confidentiality, this document contains confidential information that you wish to have deleted prior to publication, please inform the Commission¹² within 3 working days of receipt¹³ and give reasons for any such request.

Yours sincerely



For the Commission
Roberto Viola
Director-General

¹² By email: CNECT-ARTICLE7@ec.europa.eu .

¹³ The Commission may inform the public of the result of its assessment before the end of this 3-day period.