



EUROPEAN COMMISSION

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Institut belge des services postaux et
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For the attention of:
Mr. Michel Van Bellinghen
President of the Council

Fax: +32 2 226 88 41

**Subject: Case BE/2021/2335: Market for wholesale high-quality access
provided at a fixed location in Belgium**

Article 32(3) of Directive (EU) 2018/1972: No comments

Dear Mr Van Bellinghen,

1. PROCEDURE

On 17 August 2021, the Commission registered a short form notification from the Belgian national regulatory authority, Institute for Postal services and Telecommunications (BIPT)¹, concerning the amendments of remedies in the Belgian market for wholesale high-quality access provided at a fixed location².

¹ Under Article 32 of Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (the Code) (OJ L 321, 17.12.2018, p. 36).

² Corresponding to market 2 in Commission Recommendation (EU) 2020/2245 of 18 December 2020 on relevant product and service markets within the electronic communications sector susceptible to ex ante regulation in accordance with the Code (2020 Recommendation on Relevant Markets) (OJ L 439, 29.12.2020, p. 23-31).

The national consultation³ ran from 31 March 2021 to 10 May 2021.

2. DESCRIPTION OF THE DRAFT MEASURE

2.1. Background

The market for wholesale high-quality access provided at a fixed location in Belgium was previously notified to and assessed by the Commission under case BE/2019/2208⁴.

The wholesale market for high quality access, as notified in 2019, included: high quality access services provided with various technologies, point-to-point as well as point-to-multipoint, for all bandwidths, independently of the usage (access lines or backhaul lines). The market did not include: central access services using DSL, cable or other shared access technologies (bitstream) and dark fibre access. In terms of network topology, BIPT found that the relevant product market includes terminating segments from the end user site up to any core node of the network. This market definition allows access seekers to provide national service on the basis of one interconnections point. BIPT argued that this is justified due to evolution of the network and the move from distance-based pricing for legacy products to capacity based pricing for Ethernet products, which rendered the trunk market in Belgium irrelevant.

The geographic market was found to be national, as BIPT considered that any existing differences (in particular between Flanders, Wallonia and Brussel region) are insufficient to justify the geographic segmentation of the market; yet the differences are taken into account at the stage of imposition of the remedies.

Proximus was designated as having significant market power based on its high market share (60% including self-supply) and the considerable distance to its closest competitors.

BIPT proposed to impose a full set of remedies, including access and price control.

2.2. The draft measure notified by way of a short form

BIPT proposes to amend the Reference Offer regarding the services regulated in market 2. The main additions in the reference offer (compared to the previous version before the market analysis) are as follows:

- The option of national interconnection (in line with the access obligation imposed in the market analysis),
- A new “NGLL Light⁵” service (asymmetric profiles provided on a dedicated fiber, in line with the non-discrimination obligation imposed in the market analysis),

³ In accordance with Article 23 of the Code.

⁴ C(2019) 8533 final

⁵ Next Generation Leased line Interface.

- New intermediary bandwidth profiles (in line with the non-discrimination obligation imposed in the market analysis);
- New tariff proposals for the bandwidth profiles from 2 to 10 Gbps.⁶

3. NO COMMENTS

The Commission has examined the notification and has no comments.⁷

Under Article 32(9) of the Code, BIPT 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 6 of Recommendation **2021/554**⁸ the Commission will publish this document on its website. If BIPT considers that, in accordance with EU and national rules on business confidentiality, this document contains confidential information that you wish to have deleted prior to publication, please inform the Commission⁹ within three working days of receipt¹⁰. Please give reasons for any such request.

Yours sincerely,

For the Commission
Roberto Viola
Director-General

⁶ The prices proposed are accepted by IBPT as they are below the, previously imposed, caps.

⁷ In accordance with Article 32(3) of the Code.

⁸ Commission Recommendation (EU) 2021/554 of 30 March 2021 on the form, content, time limits and level of detail to be given in notifications under the procedures set in Article 32 of Directive (EU) 2018/1972 of the European Parliament and of the Council establishing the European Electronic Communications Code OJ L 112, 31.3.2021, p. 5.

⁹ By email: CNECT-markets-notifications@ec.europa.eu

¹⁰ The Commission may inform the public of the result of its assessment before the end of this three-day period.