



EUROPEAN COMMISSION

Brussels, 23/04/02007

**SG-Grefte (2007) D/202427**

Institut belge des services postaux et  
des télécommunications (IBPT)  
Avenue de l'Astronomie 14 - Bte 21  
B-1210 Bruxelles  
Belgium

For the attention of:  
Mr. Eric Van Heesvelde  
Chairman of the Board

Fax: 02 226 88 41

Dear Mr Van Heesvelde,

**Subject: Case BE/2007/0610: Mobile access and call origination on public mobile telephone networks in Belgium**

**Article 7(3) of Directive 2002/21/EC<sup>1</sup>: No comments**

## **I. PROCEDURE**

On 21 March 2007, the Commission registered a notification from the national regulatory authority ("NRA") of Belgium, *Institut Belge des services postaux et des télécommunications* ("IBPT"), concerning the wholesale market for access and call origination on public mobile telephone networks in Belgium, which corresponds to market 15 in the Commission's Recommendation on relevant markets.<sup>2</sup>

---

<sup>1</sup> 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.

<sup>2</sup> Commission Recommendation 2003/311/EC of 11 February 2003 on relevant product and services markets within the electronic communications sector susceptible for *ex ante* regulation in accordance with 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 ("the Recommendation"), OJ L 114, 8.5.2003, p. 45.

A national consultation<sup>3</sup> ran from 31 October to 17 December 2007.

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

## **II. DESCRIPTION OF THE DRAFT MEASURE**

### **II.1. Market definition**

IBPT defines the relevant market as the wholesale market for access and call origination on mobile public telephone networks, including (i) national roaming services, (ii) access of third-party operators, i.e. independent Service Providers (“SPs”) and Mobile Virtual Network Operators (“MVNOs”), to the networks of mobile network operators (“MNOs”) irrespective of whether the retail market was pre-paid or post-paid, and (iii) origination of calls to value added services.

At wholesale level, IBPT notes that only BASE and Mobistar offer access and call origination services to third parties. However, according to the IBPT Belgacom Mobile (Proximus) could also provide the service in a short timeframe. Therefore it includes self-supply in the relevant wholesale market.

The relevant retail market includes all voice calls on GSM (2G) and 3G mobile networks, as well as SMS and other data services.

The relevant geographic market is the territory of Belgium.

### **II.2. Absence of significant market power (“SMP”) finding**

Three MNOs are active on the retail market in Belgium: Belgacom Mobile, Mobistar and Base. At the retail level, several MVNOs use the network of BASE or Mobistar. Belgacom Mobile does not provide wholesale services to MVNOs.

IBPT assesses whether any MNO could be designated as having SMP, individually or jointly with others, and considers *inter alia* the following criteria: control of infrastructure not easily duplicated, vertical integration, markets shares and market concentration, easy access to financial resources, countervailing buying power and transparency.

Concerning market shares (in number of subscribers) at the retail level, the three network operators had the following market shares in the first half of 2006: 46,1% (Belgacom Mobile), 32,1% (Mobistar), and 21,9% (BASE). For the time being, IBPT considers that the market share of SPs and MVNOs can be considered as negligible. As self-supply is included in the market, retail market shares serve as a proxy for wholesale market shares according to IBPT.

As regards single dominance, IBPT notes that only Belgacom Mobile has a retail market share of more than 40%. However, according to IBPT, Belgacom Mobile does not benefit from any technological advantage in terms of infrastructure not easily duplicable

---

<sup>3</sup> In accordance with Article 6 of the Framework Directive..

or access to scarce resources (frequencies in particular). Moreover, its market share (in number of customers) has been decreasing from 56% in 2001 to 46,1% in 2006. Therefore, IBPT considers that Belgacom Mobile, on its own, does not have SMP on the relevant wholesale market.

As regards collective dominance, IBPT notes that BASE and Mobistar have already signed several MVNO and SP agreements with third parties (Delhaize, Carrefour, NRJ, Transatel, etc.) on a voluntary basis. Therefore, although the wholesale market is to a certain extent transparent since competitors can observe the presence of MVNOs and SPs on the retail market, IBPT did not identify any elements such as focal point and retaliation mechanism that would indicate collusion in the market. On the basis of the above, IBPT considers that there is no collective dominance of Belgian MNOs on the relevant wholesale market.

### **II.3. Regulatory remedies**

On the basis of its finding that no undertaking has SMP on the relevant market, IBPT does not intend to impose regulatory obligations.

### **III. NO COMMENTS**

The Commission has examined the draft measure and the additional information provided by IBPT and has no comments.

Pursuant to Article 7(5) of the Framework Directive, IBPT may adopt the resulting draft measures and, where it does so, shall communicate them 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 12 of Recommendation 2003/561/EC<sup>4</sup> 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 Commission<sup>5</sup> within three working days following receipt whether you consider that, in accordance with Community and national rules on business confidentiality, this document contains confidential information which you wish to have deleted prior to such publication. You should give reasons for any such request.

Yours faithfully,  
For the Commission,  
Philip Lowe  
Director General

---

<sup>4</sup> Commission Recommendation 2003/561/EC of 23 July 2003 on notifications, time limits and consultations provided for in Article 7 of Directive 2002/21/EC, OJ L 190, 30.7.2003, p. 13.

<sup>5</sup> Your request should be sent either by email: [INFSO-COMP-ARTICLE7@ec.europa.eu](mailto:INFSO-COMP-ARTICLE7@ec.europa.eu) or by fax: +32.2.298.87.82.