



BIPT

BELGIAN INSTITUTE FOR POSTAL SERVICES AND TELECOMMUNICATIONS

PRESS RELEASE

The requests for annulment of BIPT's regulation of mobile termination rates are rejected on the merits, but the Court of Appeal asks notification to the Community regulators

Brussels, 21 May 2012 – The Brussels Court of Appeal rejects Mobistar's and BASE's requests for annulment of the BIPT decision that imposes a cut of mobile termination rates to 1.08 €cent/min as from 1 January 2013. However, the Brussels Court of Appeal points out that the draft decision should first have been notified to the Community regulators.

On 29 June 2010, BIPT adopted a decision that lowers the mobile termination rates to 1.08 eurocent/min by 1 January 2013. In July 2010, BASE and Mobistar submitted to the Brussels Court of Appeal requests to suspend that BIPT decision, but to no avail. The Court already ruled at the time that BIPT had not made any manifest errors of judgment.

Awaiting a judgment on the merits and not having been suspended, the termination rates were already lowered gradually by the BIPT decision on 1 August 2010, 1 January 2011 and lately on 1 January 2012.

In an eighty page judgment the Court of Appeal now confirms BIPT's method and motivation on the merits of the case, and systematically dismisses the grievances of the mobile operators who challenged the decision.

However, the Court accepts the ground for annulment that, in accordance with the cooperation agreement, the draft decision should have been notified to the Community regulators. Considering the decision's objectives of general interest the Court thinks, however, that the annulment for a procedural matter should be limited in time. It has therefore requested the Constitutional Court to examine that possibility.

Concretely this means that the decision of 29 June 2010 remains valid awaiting the answer to the preliminary question submitted to the Constitutional Court. Afterwards the Court will give its final ruling and BIPT can adopt a corrective draft decision, which is notified to the Community regulators. The rates imposed will therefore remain in full force.

As a result the end of the tariff asymmetry between the 3 mobile operators active in Belgium is confirmed. On 1 January 2013 the MTRs will again drop to the common rate of 1.08 €cent/min (in constant euro).

Luc Hindryckx, Chairman of the BIPT Council:

“This judgment provides legal certainty to the method and motivation of BIPT’s decision. We are but one procedural step away from full tariff symmetry on 1 January 2013. Since the liberalisation of the telecoms sector MTRs have been lowered by 80%, resulting in a 40% decrease of retail prices for the benefit of Belgian consumers. Full symmetry will also promote healthy competition between fixed and mobile operators, as well as between mobile operators.”

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