

SUMMARY NOTIFICATION FORM: ADDITIONAL SMP DESIGNATIONS ON RELEVANT MARKET 9

1 MARKET DEFINITION

1.1 Affected relevant product/service market

1 Relevant market 9 is a group of wholesale markets for call termination services on individual public telephone networks provided at a fixed location. The number of markets equals the number of individual public phone networks on which calls are terminated. In the original market review, adopted by the BIPT council on 11 August 2006, nine networks were considered to constitute a market:

- 1.1 Belgacom;
- 1.2 BT;
- 1.3 Coditel;
- 1.4 COLT;
- 1.5 MCI;
- 1.6 Mobistar;
- 1.7 Scarlet (more precisely Scarlet Business);
- 1.8 Telenet;
- 1.9 Versatel.

2 To this list, the networks of the following operators must be added:

- 2.1 3 Stars Net;
- 2.2 Brutélé;
- 2.3 Equant;
- 2.4 Ipnesc;
- 2.5 Realroot;
- 2.6 Scarlet Extended;
- 2.7 Sound&Motion;
- 2.8 Tele2;
- 2.9 Toledo;
- 2.10 Wavecrest Belgium;
- 2.11 Weepee Studio's.

3 Apart from these additional networks, there is no change to the conclusions of the original market definition.

1.2 Affected relevant geographic market

4 There is no change to the conclusion that the relevant geographic markets coincide with each individual public telephone network.

1.3 Summary of opinion of national competition authority

5 The national competition authority had no comments on the market definition.

1.4 Overview of the results of the public consultation

6 Four stakeholders sent comments before the end of the public consultation (from 27 November to 27 December 2006). These stakeholders were (in alphabetical order):

- 6.1 3 Stars Studio;
- 6.2 Group of operators;
- 6.3 Mobistar;
- 6.4 Scarlet.

- 7 One stakeholder made a remark on the identities of the undertakings in the Scarlet group. As a result, the name of the company in the original decision has been specified and the name in the additional draft decision has been changed.

1.5 Deviation from relevant markets listed in the Recommendation

- 8 The market of call termination services on individual public telephone networks corresponds to the ninth relevant market listed in the Recommendation. Since the market boundaries coincide with the network boundaries of each individual operator, additional decisions must be issued every time that new network operators come into business.

2 DESIGNATION OF UNDERTAKINGS WITH SIGNIFICANT MARKET POWER

2.1 The names of the undertakings designated as having significant market power

- 9 All operators having a public telephone network on which calls can be terminated on a fixed location are designated as having significant market power. For VOB operators, the allocation of geographic numbers is the criterion to determine whether these operators offer termination services.

2.2 The criteria relied upon

- 10 The following criteria were relied upon:

Criterion	Outcome
market share	per definition 100 %
market concentration: number of competitors	per definition 1
market dynamics	incumbent's prices have slightly fallen, Telenet and Versatel were allowed to raise their prices in 2002 (Telenet) and 2004 (Versatel) above the incumbent's terminating rate level
barriers to entry	very high as no other operator can enter these markets
countervailing buyer power	incumbent v. alternative operators: not negligible but still insufficient

2.3 The names of the main undertakings (competitors) present/active in the relevant market

- 11 Apart from the nine undertakings listed in the original decision, 11 other have been found to constitute a relevant market:
- 11.1 3 Stars Net;
 - 11.2 Brutélé;
 - 11.3 Equant;
 - 11.4 Ipness;
 - 11.5 Realroot;
 - 11.6 Scarlet Extended;
 - 11.7 Sound&Motion;
 - 11.8 Tele2;
 - 11.9 Toledo;
 - 11.10 Wavecrest Belgium;
 - 11.11 Weepee Studio's.

2.4 The market shares of the undertakings mentioned above

12 Market shares of undertakings: 100 % on their own market.

2.5 The opinion of the national competition authority

13 The NCA had no comments on BIPT's conclusion.

2.6 The results of the public consultation

14 Remarks were made on countervailing buyer power.

3 REGULATORY OBLIGATION

15 In the original decision, three different sets of remedies had been defined according to the undertaking to which they were to be imposed:

15.1 set A concerned only Belgacom;

15.2 set B concerned the OLOs except Telenet and Versatel;

15.3 set C concerned Telenet and Versatel.

16 In the additional decision, only set B is imposed on the newly designated SMP operators.

17 The following obligations will apply:

17.1 Non-discrimination

17.1.1 external

17.1.2 internal quality of service

17.2 Transparency

17.2.1 obligation to publish tariffs and communicate contracts and other information at BIPT's request

17.3 Price control and cost accounting obligation

17.3.1 incumbent's tariffs + maximum 15 % immediately

3.1 The legal base for the obligations

18 The obligations are based on the Belgian Electronic Communications Act (**BECA**) of 13 June 2005. The corresponding articles in the Access Directive (**AD**).

Obligation	BECA	European Directives
Non-discrimination	art. 58	art. 10 AD
Transparency including reference offer	art. 59	art. 9 AD
Price control and cost accounting (wholesale)	art. 62	art. 13 AD

3.2 Proportionality and justification of the obligations

19 Proportionality and justification:

Obligation	Proportionality and justification
Non-discrimination	Obligation deemed essential to allow all operators to offer services of the same quality.
Transparency	Publication of tariffs and communication of information at request not burdensome for alternative operators and giving transparency for operators.

Obligation	Proportionality and justification
Price control and cost accounting	Price control based on a maximum difference least burdensome to achieve goal of avoiding excessive prices and furthering efficiency.

3.3 Obligations not found in the Access Directive

20 All obligations imposed are derived from the Access Directive.

4 COMPLIANCE WITH INTERNATIONAL OBLIGATIONS

4.1 Obligations provided for in Article 8(5) of Access Directive

21 Not applicable.

4.2 Names of the undertakings concerned

22 Not applicable.

4.3 International commitments that need to be respected

23 Not applicable.