



EUROPEAN COMMISSION

Brussels, 22.7.2015
C(2015) 5250 final

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

For the attention of:
Mr. Jack Hamande
Président du Conseil

Fax: +32 2 226 88 41

Dear Mr. Hamande

Subject: Commission Decision concerning Case BE/2015/1765: Adjustment of the reference offer concerning the market for wholesale central access provided at a fixed location for mass-market products in Belgium

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

1. PROCEDURE

On 1 July 2015, the Commission registered a short form notification from the Belgian national regulatory authority, *Institut belge des services postaux et des télécommunications* (IBPT)¹, concerning the adjustment of the reference offer for the market for wholesale central access provided at a fixed location for mass-market products² in Belgium.

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.

² Corresponding to market 3b in Commission Recommendation 2014/710/EU of 9 October 2014 on relevant product and service markets within the electronic communications sector susceptible to ex ante regulation in accordance with Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services (Recommendation on Relevant Markets), OJ L 295, 11.10.2014, p. 79.

The national consultation³ ran from 1 October 2014 to 14 November 2014.

2. DESCRIPTION OF THE DRAFT MEASURE

2.1. Background

The market for wholesale central access provided at a fixed location in Belgium was previously notified to and assessed by the Commission under case BE/2011/1228⁴.

At the time CRC⁵ included in the wholesale broadband access market Bitstream access provided through ADSL, SDSL and VDSL. CRC excluded resale products, leased lines services as well as cable based access from the relevant market. The geographic market was defined as national. CRC designated Belgacom as the SMP operator and imposed the following obligations: (i) access to broadband services, (ii) non-discrimination, (iii) transparency, (iv) price control and cost accounting, and (v) accounting separation.

The Commission invited CRC to monitor the market, namely with regard to the evolution of local exchange dismantling by Belgacom and the implementation of VDSL2, to ensure that, in the transition to NGA networks, competition is safeguarded and new bottlenecks are avoided in the broadband markets. Moreover, the Commission drew CRC's attention to the potentially varying levels of competitive pressure exercised at retail level by cable operators in different areas of the Belgian market, which, together with the proposed physical access remedies, could potentially warrant reducing the intensity of downstream regulation in certain areas.

In 2013⁶ IBPT notified amendments to the reference offers of BRUO⁷, BROBA⁸ and WBA VDSL2⁹ which aimed at improving the internal consistency, transparency and readability of reference offers. The Commission did not make any comments.

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

The currently notified draft measure concerns the adjustments to the BROBA and WBA VDSL2 reference offer relating to certain technical specifications, such as information on the protocols which are blocked or limited by the Proximus network,

³ In accordance with Article 6 of the Framework Directive.

⁴ C(2011) 4535.

⁵ In Belgium, competencies related to electronic communications are shared between the Federal State and the Communities. The CRC was established by the 2006 Cooperation Agreement as the body for cooperation between IBPT (Federal State), Conseil Supérieur de l'Audiovisuel (CSA – French speaking Community), Vlaamse Regulator voor de Media (VRM – Flemish Community) and the Medienrat (German speaking Community).

⁶ Case BE/2013/1514, C(2013) 8182.

⁷ Reference offer for local loop unbundling.

⁸ Reference offer for Bitstream services for xDSL technologies over ATM or Ethernet network, with the exception of the VDSL2 technology.

⁹ Reference offer for Bitstream services for VDSL2 over Ethernet network.

and characteristics of burst size, delay and jitter. Previously such information has not been included in the reference offer.

3. NO COMMENTS

The Commission has examined the notification and has no comments.¹⁰

Pursuant to 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 *vis-à-vis* other notified draft measures.

Pursuant to Point 15 of Recommendation 2008/850/EC¹¹ 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 Commission¹² within three working days following receipt whether you consider that, in accordance with EU and national rules on business confidentiality, this document contains confidential information which you wish to have deleted prior to such publication.¹³ You should give reasons for any such request.

Yours sincerely,

For the Commission,
Robert Madelin
Director-General

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.

¹² Your request should be sent either by email: CNECT-ARTICLE7@ec.europa.eu or by fax: +32 2 298 87 82.

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