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Institut Belge des services postaux et des  
télécommunications (IBPT)  
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B-1210 Bruxelles

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

Fax: +32 2 226 88 41

Dear Mr Van Heesvelde,

**Subject: Case BE/2007/0657: Amendments of market analysis decisions and remedies related to previous cases in Belgium**

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

## **I. PROCEDURE**

On 29 June 2007 the Commission registered a notification by the Belgian national regulatory authority, the Institut Belge des services postaux et de télécommunications, ("IBPT"). The notification concerns (i) draft decision regarding implementation by Belgacom of an obligation to set up a cost accounting system and (ii) amendment of the draft decisions notified to the Commission in cases BE/2006/0400-0401<sup>2</sup>, BE/2006/0439-0441<sup>3</sup> and BE/2006/0552<sup>4</sup>.

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<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 ("the Framework Directive").

<sup>2</sup> SG (2006) D/003785 – case related to retail access to the public telephone network at a fixed location for residential customers and for non-residential customers, *i.e.* markets 1 and 2 of the Commission Recommendation 2003/311/EC of 11 February 2003 on relevant product and services markets within the electronic communications sector susceptible to *ex ante* regulation in accordance with the Framework Directive (the "Recommendation"), OJ L 114, 8.05.2003, p. 45.

<sup>3</sup> SG (2006) D/204471 – cases related to wholesale call origination, termination and transit on the public telephone network provided at a fixed location, *i.e.* markets 8, 9 and 10 of the Recommendation.

<sup>4</sup> SG (2007) D/200026 and D/200118 – case related to wholesale terminating segments of leased lines, *i.e.* market 13 of the Recommendation.

The national consultation<sup>5</sup> regarding the amendment ran between 6 and 24 April 2007, while the national consultation regarding the cost accounting obligation ran between 19 October and 24 November 2006. The deadline for the Community consultation is 30 July 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

IBPT has undertaken a number of market analyses that have previously been notified to, and assessed by the Commission. As a result of market analyses, Belgacom was designated as an operator with Significant Market Power ("SMP") in markets 1, 2, 8, 9, 10 and 13 of the Recommendation. One of the obligations IBPT imposed on Belgacom in all these cases was to establish a cost accounting system.

In the presently notified draft measure IBPT specifies the:

- basic principles on which the cost accounting system should be based (causality, objectivity, consistency and transparency, as well as comprehensibility for an informed reader);
- quality of information used by the system (which should be relevant, reliable, comparable, material and confirmable);
- documentation to be prepared by Belgacom concerning *inter alia* allocation of costs, asset evaluation and modifications of the cost accounting system;
- role of the IBPT in setting up the system;
- scope of description of the system which would be published;
- manner to control the system by a designated auditor;
- timetable of system implementation.

In its reply to the Commission's request for information IBPT states that the system should be applied from 2008<sup>6</sup> onwards.

IBPT also points out that the following cost calculation models on the markets concerned are still being developed: (i) a "retail minus" model for wholesale line rental on market 1 and 2, and (ii) a bottom-up Long Run Incremental Cost model on market 13<sup>7</sup>.

During the preparation of this draft decision, BIPT concluded that some passages of the previously notified decisions on market analyses may not enable a coherent and harmonised implementation of the cost accounting obligation imposed on Belgacom on the different markets concerned. Therefore, BIPT proposes in this draft decision amending certain initial decisions on market analysis as regards the cost accounting obligation. BIPT considers that this modification does not change the nature of the remedies imposed on Belgacom.

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<sup>5</sup> In accordance with Article 6 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 (the "Framework Directive"), OJ L 108, 24.4.2002, p. 33.

<sup>6</sup> On the basis of accounting year 2007.

<sup>7</sup> Commission recalls that draft measures relating to these regulatory obligations are required to be notified under Article 7(3) of the Framework Directive, provided that they impose direct obligations on the SMP operator and are not only intermediate steps. In relation to the current notification the Commission also recalls the relevance and validity of the comments it made in case BE/2007/0640, which concerned methodology developed by IBPT to detect eventual price squeeze *inter alia* on markets 1 and 2.

### III. NO COMMENTS

The Commission has examined the notification and the additional information provided by IBPT and has no comments<sup>8</sup>.

Pursuant to Article 7(5) of the Framework Directive, IBPT may adopt the resulting 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 12 of Recommendation 2003/561/EC<sup>9</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>10</sup> within three working days following receipt whether you consider, in accordance with Community and national rules on business confidentiality, that 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

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<sup>8</sup> Pursuant to Article 7(3) of the Framework Directive.

<sup>9</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>10</sup> Your request should be sent Esther by email: [INFSO-COMP-ARTICLE7@ec.europa.eu](mailto:INFSO-COMP-ARTICLE7@ec.europa.eu) or by fax: + 32.2.298.87.82.