

BIPT

Belgian Institute for Postal Services and Telecommunications
Annual report 2010



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2010

6

In the 2009 annual report mainly activities were presented that had been initiated by the previous BIPT Council; this document looks back on the actions taken by my colleague Council Members (Catherine Rutten, Charles Cuvelliez and Axel Desmedt) and myself.

It constitutes a useful supplement to the report and interactive presentation "Perception of the electronic communications sector 2010" that have been published.

In the following pages we have put forward the results achieved in BIPT's competence, with a special focus on the readability of the text, adding an educational touch to it.

Not with a view to lecturing, but so that everyone can understand the ins and outs of our actions, whether or not the reader is familiar with the industry sectors regulated by BIPT.



Luc Hindryckx

Message from the Council Chairman

BIPT is the Belgian regulator. It has been in existence for almost twenty years, but does it function properly? Does it meet the stakeholders' interests? Can it do better or more? When we took charge of the Institute my colleagues and I wanted these questions to be answered. That is why we have listened to the organisation's officials, to the market players and also in a broader perspective to the majority of stakeholders. Indeed, it was just as important to know exactly who they are, what they do and what their priorities are. Maximum transparency is wished for on both sides to create a climate of trust and mutual respect, making an efficient decision-making process possible, which profits both the regulator and all parties involved.

At the end of October 2010 the Council Members published BIPT's first strategic plan covering the 2010-2013 period. The document clearly describes BIPT's missions, its values, its projects and the axes along which it will focus its efforts. BIPT has taken eight main strategic axes into consideration:

efficient regulation

management of scarce resources

promotion of consumer interests

special attention to social cohesion

carrying out specific checks

higher administrative efficiency

a sense of dialogue and communication

and development of an adaptive and result-oriented culture

This strategic plan will be completed by an operational plan.

The document was well received by a large majority of stakeholders, who appreciate the course taken and its ambitious nature, while referring again to the need for BIPT to have the financial and human resources at their disposal necessary to achieve its ambitions.

True to BIPT's values the BIPT staff members' dedication and motivation constitute the basis and driving force that lead towards the changes, which the markets need. I thank everyone of them. At the same time I assure them that thanks to their daily efforts BIPT gains the stakeholders' respect and continues to assert itself as a strong and independent regulator.

Luc Hindryckx, Chairman of the BIPT Council

Message from the Council

In the seventeenth annual report of the Belgian Institute for Postal Services and Telecommunications (BIPT) the reader will find an overview of the actions it has taken or finalised in 2010. The four members of the BIPT Council would like to clarify briefly a few of the most remarkable cases that were treated in the past year and relate them to the axes mentioned in the 2010 – 2013 Strategic Plan.

- + As an example of the axis “Efficient regulation”, one of the purposes of which is to promote a level playing field (i.e. make efforts to enable operators to fight with the same weapons and give them equal chances) the completion of Belgacom’s wholesale offer can be mentioned; as a result the alternative operators on the Belgian market are able to offer VDSL2 products through the Belgacom network. These measures are aimed at enhancing competition on the broadband market and lowering the end-user broadband tariffs. The tariffs for the new VDSL2 wholesale offer enabling the alternative operators to offer VDSL2 services to the end-users by using Belgacom’s equipment and copper wire through bitstream access were fixed on 3 August 2010. The players using this wholesale offer of a regulated product will be able to offer a great range of their own value propositions, independent of any coincidence and to offer their products and services under terms that can compete with their rivals.

Another aspect of efficient regulation, as BIPT sees it, is adopting decisions that are taken quickly, that are clear, independent of any political considerations, and offering firm perspectives to policy-makers as to their business and investment plans. The Decision of 29 June 2010 regarding regulation of the Mobile Termination Rates (“Market 7”) is an example. That decision will help to make the Belgian telecommunications market more dynamic by pursuing the triple goal set in the prevailing regulatory framework, which is to protect the interests of civilians (owing to the decrease of retail



Axel Desmedt



prices hoped for), to promote competition (by stimulating competition between fixed and mobile operators regarding the offer of converging products) and to contribute to the development of the internal market (by applying regulatory measures that take maximum account of the European recommendations). The decision improves the level playing field by gradually eliminating the tariff differences that existed between the three mobile operators. That way fixed operators now have the possibility to include mobile communications into their bundles.

It should be repeated that BIPT also has the power to adopt retroactive renewal decisions in order to fill the legal void caused by the annulment *ex tunc* by the Court of Appeal. As they are considered never to have come into effect, the provisions need to be revised and completed, in order for the regulatory framework to regain its integrity and so to have the effect aimed at; indeed, legal certainty is one of the main parameters for the operators' activities.

- + It may be easier to have a better idea of what the axis "Management of scarce resources" is about. The exhaustibility of the numbering space or of the radio spectrum evidently requires a stringent and effective management. Thanks to the lessons learned from the various consultations in that field BIPT has reviewed its spectrum management in cooperation with the government bodies concerning the 790 MHz - 3400 MHz frequency bands, in order to better adapt that management to the promotion of market developments (benefiting end-users), to use the spectrum more efficiently and to give market players a clearer view in accordance with the European regulatory framework, by amending the existing framework in a number of aspects. Broadband penetration in Belgium appears to be not as high as in other European countries. There is relatively little competition between Belgian mobile broadband operators. In addition, the current tariff structures are complicated and the actual rates are high compared to other countries. The organisation of an auction procedure for one or more new 3G operators, together with the grant of 4G user rights should not only boost competition, but also make tariffs more attractive and tariff structures more transparent.



- + Let us have a look at the “Consumer” axis. Promoting the interests of consumers and the public at large is an important measure to fathom the efficiency of the regulation instituted by BIPT. BIPT wants to be attentive to these interests both when preparing its measures and when checking their observance by market players. This was notably the case at the beginning of 2010 when Belgacom announced a change to its Internet offer. The changed offer was accompanied by a tariff increase of two of the operator’s four main Internet offers. Prices went up by 0.95 EUR and 1.15 EUR a month respectively, along with a change of the characteristics concerning download speed and monthly allowed download volume. BIPT held an inquiry into the way in which Belgacom had communicated this price increase to its subscribers. This BIPT inquiry showed that Belgacom had failed to fulfil its transparency obligations towards its subscribers. Among other things Belgacom had neglected to point out simultaneously that following this tariff increase subscribers were entitled to cancel their contracts free of charge, which it should have done under Article 108, § 2, of the Electronic Communications Act. After having gone through the infringement proceedings BIPT imposed an 800,000 EUR administrative fine on Belgacom with a decision of 28 June 2010. At BIPT’s insistence the Belgacom customers were offered the possibility in the final quarter of 2010 to cancel their contracts free of charge according to the legal provisions. In the postal sector as well BIPT has given proof of its willingness to learn about the residential customers’ and professional users’ wishes: the results of the two surveys were published in 2010. The first survey concerned the behaviour and wishes of the residential customers relating to the universal postal service in Belgium. The second one related to the wishes of business customers regarding postal services.
- + Although the “Social cohesion” axis is closely linked to the “Consumer” axis, it may raise a few questions. The essence is that telecommunications services and postal services are recognised to be a key element in social cohesion and should be accessible to everyone from school time onwards. In its Strategic Plan BIPT refers directly to the Digital Agenda 2020 , which specifically states: “The digital era should be about empowerment and emancipation; background or skills should not be a barrier to accessing this potential.” By choosing social cohesion as a strategic axis BIPT unambiguously confirms that the universal service (in a market open to competition the universal service principle means that all users should be guaranteed access to a minimum package of services of a given quality and at affordable prices, provided the market does not offer these services itself), the affordability of the rates of services and their quality and availability are also part of its endeavours. To illustrate this, we refer to the 2009 report on the universal electronic communications service or the fact that BIPT’s “STT” (social telephone tariffs) cell treated no less than 24,000 applications for a social telephone tariff in 2010.
- + The name of the “Specific checks” axis is transparent. The purpose of the checks is to verify the implementation of the regulation, the defence of consumer interests, the well thought-out use of resources and the fulfilment of the universal services obligations. Monitoring is a conditio sine qua non for several strategic axes. At the same time the checks aim to structure the market players’ behaviour, by creating a deterrent. As for equipment more than 650 checks were carried out in 2010, mainly in shops: almost 70 public markets and about ten fairs were visited, with the main purpose of informing the exhibitors well in time. NCS (the National Spectrum Monitoring Department), responsible for “policing the radio waves” in the broad sense of the word, treated no less than 383 cases of interference.
- + Action has been taken as to the axis of “Administrative efficiency”. Administrative efficiency is striven for from three angles: simplification, automation and accessibility. As such BIPT questioned itself and tried to review not only its structure, but also the working methods and resources it uses. Pools were created to strengthen the team spirit and to simplify the decision making and the succession of actions; computer programmes were selected to make it easier to share, collaborate on and secure documents, in order to work quicker and more efficiently.

- + Similar to many other axes the strategic axis of “Dialogue and communication” directly meets the concern formulated by the Consultative Committee for telecommunications at the end of December 2009 in its recommendations to BIPT. The regulator’s actions should be clearly understood by the stakeholders (operators, community regulators, competition authorities, media ...). In order for a larger public to have a better understanding BIPT made efforts to communicate more clearly about its actions. This is evidenced by the press releases published in the course of the year and the Council Members availability to give detailed explanations about topics. The publication of new BIPT documents is also announced in mailings for instance. Sometimes these also serve to invite market players to info sessions or to quickly gather information in a very focused manner.
- + Finally, the “Culture” axis requires BIPT to reflect on the fact that it operates in a context that is more lively than what may appear at first sight. Several aspects of this method need to be addressed with openness and determination and adjusted to promote result-orientation, sense of responsibility, coordination, cooperation and knowhow.

The Council Members wish you lots of pleasure when reading this report and they are always prepared to answer any questions about this annual report.



Charles Cuveliez

Charles Cuveliez

1. ACT OF 21 MARCH 1991 ON THE REFORM OF CERTAIN ECONOMIC PUBLIC COMPANIES.

2. ACT OF 17 JANUARY 2003 ON THE STATUS OF THE REGULATOR OF THE BELGIAN POSTAL AND TELECOMMUNICATIONS SECTORS.

3. ON 17 JUNE 2010, LA POSTE ANNOUNCED ITS CHANGE OF NAME. BY ROYAL DECREE OF 6 JANUARY 2011 APPROVING A CHANGE TO LA POSTE'S ARTICLES OF ASSOCIATION, WHICH CAME INTO FORCE ON 17 JANUARY 2011, THE NAME OF "LA POSTE" WAS CHANGED INTO "BPOST" (BELGIAN OFFICIAL GAZETTE, 12 JANUARY 2011)

BIPT

Twenty years ago, in 1991, the federal authorities created BIPT (the Belgian Institute for Postal Services and Telecommunications) and tasked it with the managing two sectors: electronic communications (including radiocommunications) and the postal services sector. In 2007 that scope was extended to broadcasting in Brussels, insofar as this falls within the power of the Federal State.

By way of the Act of 21 March 1991¹ the Belgian legislator has unequivocally indicated that BIPT is competent for both areas of activity. BIPT started its activities in July 1993. The Act of 17 January 2003² transformed it into an institution of public interest with a status of its own, thus ensuring its independence of government.

BIPT is a federal body that performs the following tasks:

- + it acts as a Belgian administration (collection of fees, carrying out various tasks, ...);
- + it is the regulator of the postal services and electronic communications markets;
- + it manages the electromagnetic radio frequency spectrum;
- + it is a media regulator in Brussels-Capital.

Postal services: BIPT has been entrusted with monitoring compliance with the regulatory framework and the smooth operation of the part of the market already liberalised in 2010 (the total liberalisation of the postal market has been fixed on 1 January 2011). Moreover, BIPT is in charge of monitoring certain aspects of the management contract binding La Poste³ to the State. That management contract regards the terms for the execution of certain tasks by La Poste, as well as the financial contribution of the State.

Electronic communications: BIPT exercises its powers through two kinds of activities:

- the first kind of activity refers to the regulatory tasks on the liberalised markets: BIPT makes the necessary arrangements in order that the regulatory framework is observed, competition can develop fully and correctly, some tasks of public interest are carried out and consumer interests are protected;
- the second kind of activity relates to the exercise of supreme authority in a number of specific technical fields, or in fields where resources are scarce, such as the electromagnetic spectrum or the numbering space. A regulator is needed in order to share, regulate and monitor their use with accuracy.

Broadcasting in Brussels-Capital: In Brussels BIPT is the broadcasting regulator of federal competence, i.e. for the broadcasting bodies established there that neither fall within the competence of the French Community nor the Flemish Community's.

BIPT carries out yet more technical tasks of public interest (see pages 79).

The Council

Luc Hindryckx, Catherine Rutten, Dr Charles Cuvellez B Sc and Axel Desmedt were appointed by Royal Decree as Council Chairman and Council Members respectively on 9 October 2009. At first, after having taken up their duties on 23 November 2009, the BIPT Council Members have temporarily taken over the organisational form from their predecessors. In the meantime, they have worked out a review of the structures and processes in order to meet the stakeholders' expectations more efficiently. After the 2010-2013 strategic plan was adopted in November 2010, BIPT was reorganised in pools.



BIPT STRATEGIC PLAN

The Council Members deemed a strategic plan to be necessary to meet the future challenges and based on these challenges to determine the organisation's soul exactly.

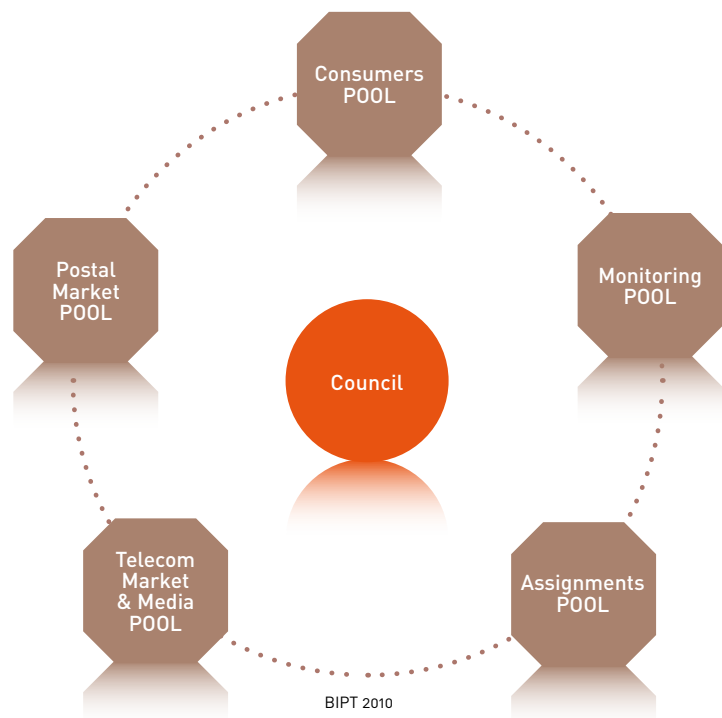
Before drawing up a strategic plan the Council first consulted the staff members in the various BIPT departments. It simultaneously sounded out the various stakeholders (Communities and Regions, operators, professional associations, consumer associations, Consultative Committees, audiovisual regulators, offices of the Ombudsmen, European Union Regulators, European Commission, ...).

Based on the lessons learned from these meetings, BIPT's 2010-2013 strategic plan⁴ was elaborated, which clearly explains the projects aimed at to all parties concerned. Through this plan stakeholders gain a better insight into the regulator's actions, so that they can develop their strategies with more ease of mind. In this win-win situation BIPT announces in what way it plans to intervene on the markets, if necessary, thus limiting the risk of irregularities and distortions.

BIPT RESTRUCTURING

Following an analysis already initiated at the end of 2009 of every departments' strengths, weaknesses, opportunities and threats it became clear that the establishment called BIPT needed an overhaul. There was room to shorten a number of successive actions, to reduce action times and to better gear processes to the strategic plan in order to increase efficiency. Therefore, the Council thought it necessary to redistribute the resources, taking account of coordination and adaptation, with a view to achieving excellence. This is the first leverage used by the strategic plan to crystallise⁵.

Five pools have been created, targeted on BIPT's strategic objectives. These pools constitute the main services; the structure is completed by supporting services to meet the transversal needs (legal department, personnel management, IT, registry, translation, international relations, communication, finances, purchasing and logistics).



As a result, BIPT's organisation and the Council Members' and Chairman's competences were changed on 1 November 2010 as follows:

LUC HINDRYCKX, COUNCIL CHAIRMAN, is in charge of the following departments:

- + the **Registry**;
- + the **Communications** Department, including statistical information;
- + the **International Relations** Department: coordination of activities relating to BEREC (Body of European Regulators for Electronic Communications), the IRG (Independent Regulators Group), the ERGP (European Regulators Group for Postal services), the European institutions, the ITU (International Telecommunication Union), the WTO (World Trade Organisation), the UPU (Universal Postal Union) and CEPT (European conference of postal and telecommunications administrations), etc.;
- + the **Finance** Department: BIPT budget, accounting (collection of revenues and management of out-goings);
- + the **Translation** Department: translation, proofreading, correction and adaptation of documents (French-Dutch-German-English).

The Council Chairman is responsible for the general coordination of BIPT's policy, the strategic plan and the operational plan, the coordination of the supporting services and the representation of BIPT.

CATHERINE RUTTEN, COUNCIL MEMBER, is in charge of the following departments:

- + the **Consumer** Department: economic, technical and legal aspects relating to the protection and information of consumers, relations with consumer organisations and offices of the Ombudsmen (<http://www.bestetarief.be/>), price barometer (www.prijsbarometer.be), economic and legal aspects relating to the implementation of universal service obligations and Belgacom's management contract, universal service monitoring, operational management of the grant of social tariffs, numbering plan management, number portability, number use; network neutrality, Telecommunications Ethics Commission (www.telethicom.be);
- + the **Postal Market** Department: strategy, legal and economic aspects, monitoring of compliance with legislation (authorisations, universal service, quality standards, tariffs) and of the management contract of La Poste, statistical information;
- + the **Purchasing and Logistics** Department: department responsible for purchases and equipment.

Mrs Rutten is also responsible for reconciliation proceedings between operators.

DR CHARLES CUVELLIEZ B Sc, COUNCIL MEMBER, is in charge of the following departments:

- + the **Telecom Market & Media** Department: all economic and technical aspects regarding telecommunications, including the tariffs of the public service (market analysis, SMP (significant market power), tariffs, cost models, calculation of universal service costs), access and interconnection (reference offers BRIO, BROBA, BRUO, BROTSoLL);
- + the **Monitoring** Department: monitoring of frequency use (including radio broadcasters in the FM band), radio interference, Joint Commission on telecommunications, implementation of the legislation on telephone tapping and emergency services, follow-up of problems relating to network safety, checking equipment and notifications in accordance with the R&TTE Directive (radio and telecommunications terminal equipment);
- + the **IT** Department: management of IT projects, equipment and software, management of the internal network, development and putting into operation software solutions.

AXEL DESMEDT, COUNCIL MEMBER, is in charge of the following departments:

- + the **Assignments** Department: strategy and coordination of radio spectrum management (internationally and nationally), international radio communications organisations, operational management of the frequency plan, (international) standardisation, issuing of radio communications authorisations (including organisation of the auction) and of voice telephony and fixed networks authorisations, declarations of telecommunications services, organisation of exams;
- + the **Legal** Department: regulatory framework of telecommunications and radio communications, legal aspects of regulation of electronic communications markets, general legal support to other departments, dispute management, conciliation, international treaties;
- + the **Personnel** Department: management of BIPT staff, recruitment, sector committee, continuous training.

In the period from 1 January 2010 to 31 October 2010 BIPT's organisation chart was as follows:⁶

LUC HINDRYCKX, CHAIRMAN OF THE COUNCIL, is in charge of:

- + the **general coordination** of the Institute's policy;
- + drawing up the **management plan**;
- + **external communication**;
- + coordination of **supporting services**;
- + the **representation of the Institute**.

CATHERINE RUTTEN, MEMBER OF THE COUNCIL, is in charge of:

- + the Department for **economic analysis of the telecoms market**;
- + the **International Telecoms Relations Department**;
- + the **Budget and Logistics** Department.

DR CHARLES CUVELLIEZ B Sc, MEMBER OF THE COUNCIL, is in charge of:

- + the **Postal Services** Department;
- + the **Monitoring, Public Service, Consumers, Universal Telecoms Service** Department;
- + the **IT and Translation** Department.

AXEL DESMEDT, MEMBER OF THE COUNCIL, is in charge of:

- + the department for the **legal aspects of telecommunications**;
- + the department for **technology, use of telecommunications and radio communications**;
- + the **Personnel** Department.

BIPT values

The values constitute BIPT's internal frame of reference, which defines the standards to be upheld when accomplishing its missions and sharing its vision. They steer the priorities in its actions as beacons showing the way for the BIPT staff's daily work. They contribute directly to BIPT's good governance and ethics.

INDEPENDENCE

By law BIPT fulfils the function of arbiter, standing above the parties. Duly aware of the needs and practices of all players whose activities are regulated by it, BIPT maintains its autonomous power of judgment under any circumstances. It listens carefully to the arguments put forward, but analyses these without taking any notice of any attempts at manipulation or pressure. This is made possible by BIPT's missions, which impose this method. This independence has been emphasised by the European directives of 25 November 2009. They stress the need for BIPT to have its own budget, so that it is able specifically to recruit sufficiently qualified staff. They also specify that BIPT ought to be protected from external intervention or political pressure that could endanger its independence.

TRANSPARENCY

BIPT and its officials operate in full transparency. Its accounts, budget and structure are clear to anyone and the steps leading up to the establishment of each of its deeds, are well-defined, predictable and stable procedures. The majority of the stakeholders is familiar with the way the services treating their cases are organised. Because it wants the inspection of documents in each file to be guaranteed, BIPT adheres to the principles of the rules regarding open government and supports them. It converts this concern into several means of communication that constantly draw attention to its operational mechanisms.

EXPERTISE

BIPT's missions require from its departments to master numerous skills in the legal, economic, technological and management fields. All this knowhow constitutes immaterial assets of fundamental importance to the smooth operation of BIPT and to earning its reputation. These assets have to be used rationally and optimally for the benefit of stakeholders and staff members. This sum of experience is constantly at the centre of attention, in order to ensure that it is shared and passed on, and also enhanced by means of continuous training.

EMPOWERMENT

Consequent to its powers and rights BIPT has obligations to fulfil and responsibilities to bear. From this point of view the staff members should be fully aware that their efforts and efficiency are the best evidence of their sense of duty and integrity. By stimulating personal initiative through empowerment BIPT wants to support its employees and encourage them in a continuous process of performance improvement for the benefit of society. Keeping a clear view to its responsibilities the Council practises accountability by way of documents such as the budget, the strategic plan, the operational plan and the annual report.

DIALOGUE

An open and continuous dialogue with all stakeholders is essential to translate BIPT's responsibility as a government body into measures and effective and efficient actions, which contribute to implementing the vision.

7. THESE ARE THE SALARIES FULLY ASSUMED BY BIPT OF THE STAFF THAT IS ASSIGNED TO THE RADIO AND TELEVISION LICENCE FEE DEPARTMENT. THESE OFFICIALS ARE NOT LONGER WORKING FOR BIPT BUT SPREAD OVER VARIOUS FEDERAL PUBLIC SERVICES.

SERVICE TO SOCIETY

BIPT is completely aware of the social dimension underpinning its actions. Beyond being a regulator it has the ambition to become one of the players that extends the range of possibilities open to society, by continuing to listen to citizens, and by meeting their wishes as quickly and as well as possible depending on the means available.

COHERENCE

The alignment of operational processes, the respect of values and the dedication of all BIPT staff members are all means that contribute to taking well-considered, correct and balanced measures aimed at promoting legal certainty and allowing to choose strategic options rationally.

BIPT budget

Since its creation, BIPT is fully financed by its own means, coming from the electronic communications sector – mainly the fees for using the radio spectrum, without any state grants.

It has its own budget, which has to be approved by the Ministers of Finance and Budget though.

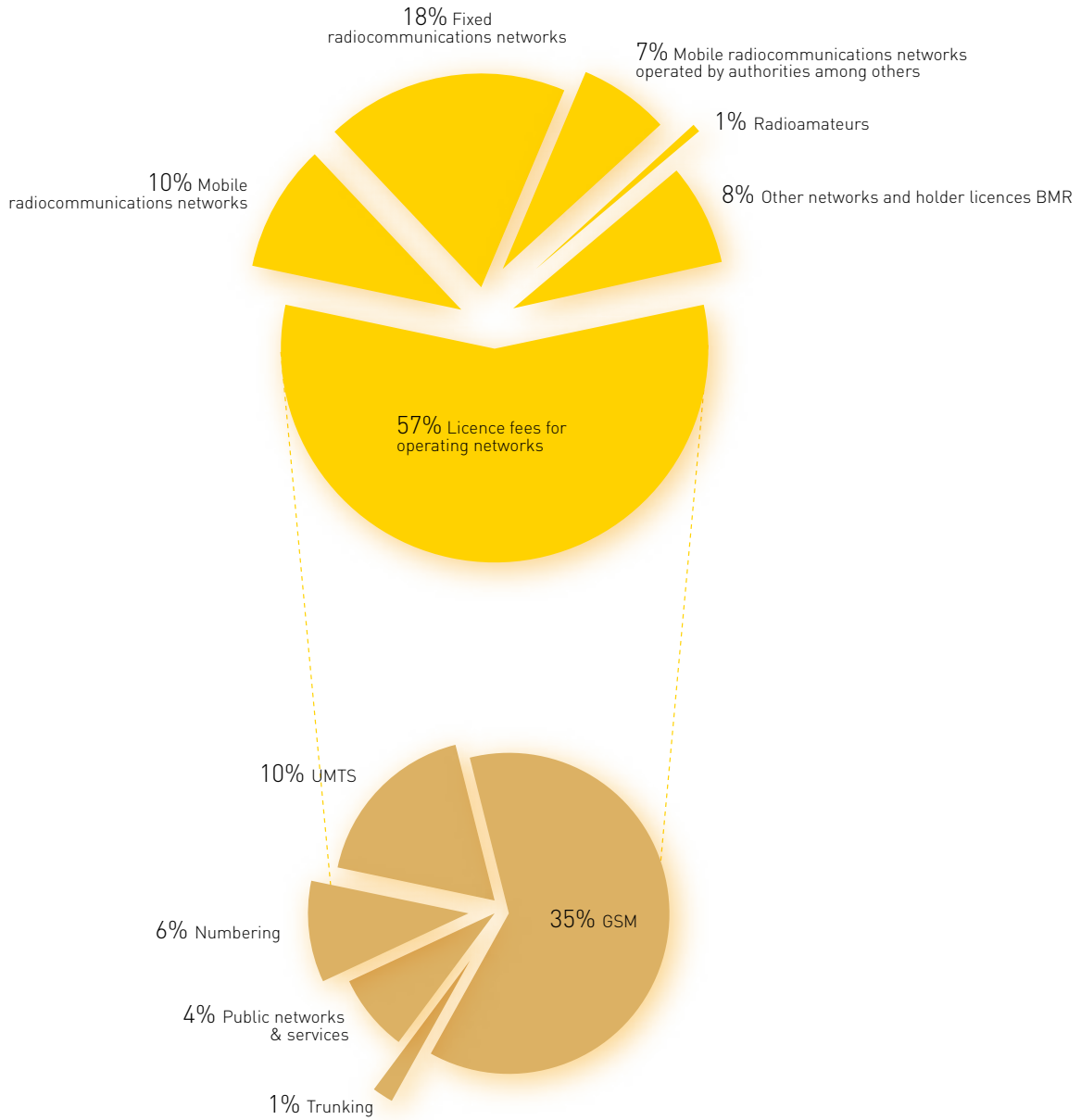
In 2010 BIPT's revenues and expenditures showed no structural differences compared to the previous years. BIPT is not allowed to increase expenditures; on the contrary BIPT has to observe the rule of zero growth. The revenues comprise fees for frequency licences, numbering plans, licences and declarations of telecommunications networks and services, as well as declarations of operation regarding other services, including in the postal sector. The Federal State is no source of financing, but a beneficiary.

Indeed, BIPT is under a legal obligation to pay the balance between its revenues and expenditures into the treasury, allowing for a liquid reserve agreed upon annually within the framework of budgetary consultation.

Achievements of BIPT - 2010			
Revenues	€	Expenses	€
Reimbursement	100,610	Personnel	19,657,663
Licence and monitoring fees for private radio communications	17,180,098	Operation	4,671,636
Public licence fees	22,409,796	Investment expenses	938,524
Post	809	Coordination organisations	1,677,186
Miscellaneous	29,425	Treasury	4,200,000
		CF/RT ⁷	4,420,226
TOTAL	39,720,738	TOTAL	35,565,235

Seeing that BIPT's set of tasks grows continuously, it is inevitable that BIPT's expenditure budget should increase in time, so that the regulator can fulfil its tasks properly on the one hand, and modernise its administration on the other.

Division of BIPT's sources of income



The staff and operational costs of the Offices of the Ombudsman for Telecommunications and the Ombudsman for the Postal Sector are borne by the respective sectors. In a sense BIPT plays the role of prefinancer.

ACCOUNTING

The pilot project allowing incoming invoices to be processed electronically, has been initiated. The advantages as to practical document management and allocation to the department and the budget heading are self-evident.

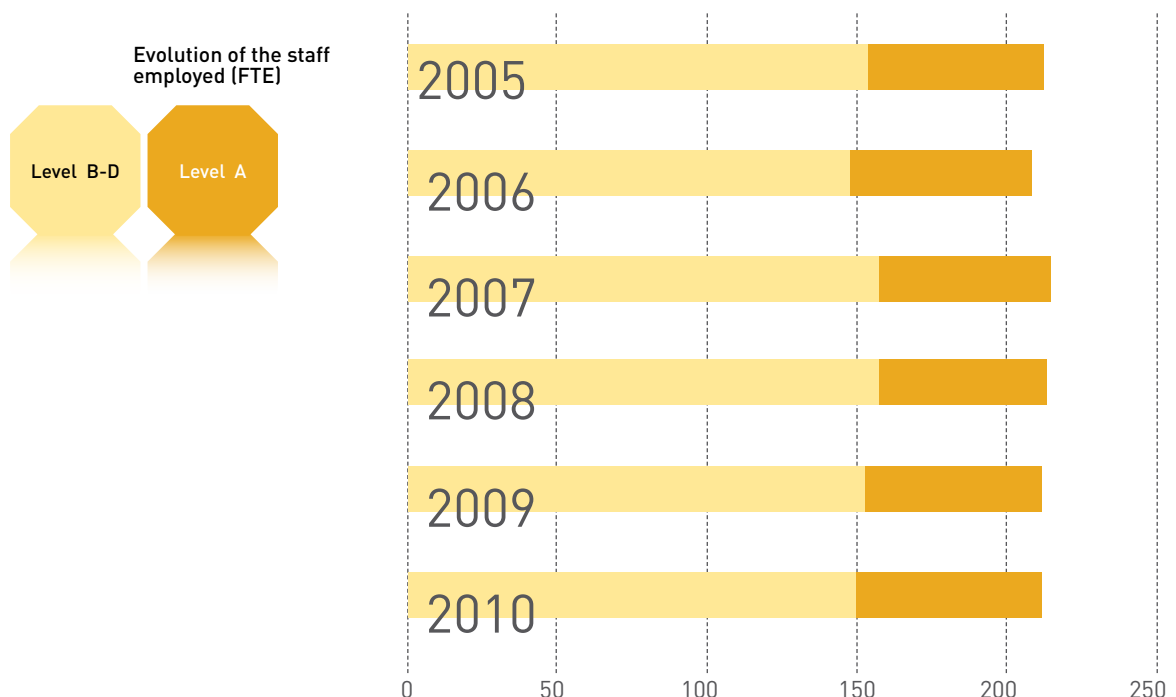
In 2010, BIPT used the electronic payments system made available by de Financiële Post, called Pay@Finpost. This payment system, specially developed for the federal public services transmits payment orders to de Financiële Post, electronically, safely and quickly.

In total 36,607 accounting operations were carried out in 2010. These represent all operations entered into the journal entries of the BIPT accounts. Overall 14,896 invoices were sent to licence holders. BIPT received 3,448 invoices for the purchase of equipment, the provision of services and for work performed. The number of financial transactions that were processed, including payments made and revenues received, amounted to 18,263. After having introduced internal checks the initiative for a programme was taken to send reminders, with a view to having any remaining unpaid bills for the 2006-2009 period settled. This undertaking will be continued in 2011.

The BIPT officials

The Personnel and Human Resources Departments first provided excellent support when preparing the strategic plan piloted by the Council and again afterwards when implementing the reorganisation resulting from the plan, i.e. the regrouping of departments into operational pools and supporting services. The creation of the "Consumer" pool is an illustration of the importance of this strategic axis.

On the one hand, this plan has resulted in a review of the organisation chart, by shifting a number of officers, and on the other in a new distribution of the number of FTEs in the departments. Within the framework of this internal mobility the social contract has been complied with in that there have been calls for voluntary applications. In this context it has to be emphasised that the supply often surpassed the demand. This progressive process proves to be stimulating for the BIPT officers because they are offered new professional chances.



Numerically, BIPT operates with only 70% of the Dutch regulator's number of FTEs

STAFF EMPLOYED

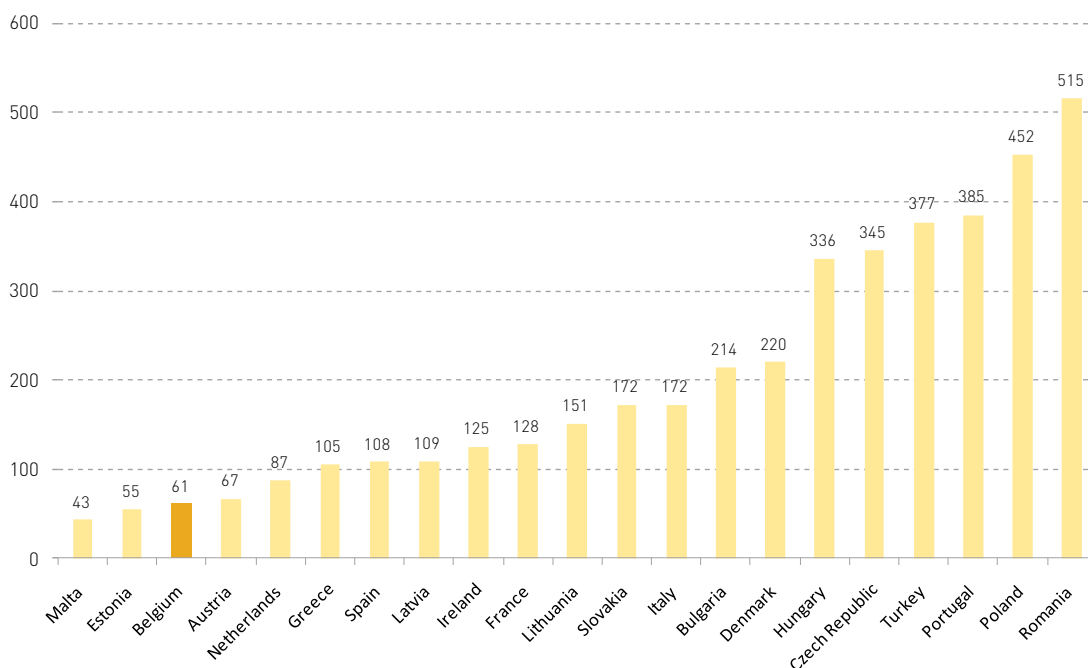
In the past few years the BIPT staff employed has remained practically unchanged, as can be seen in the diagram below.

As was the case with the secretariat of the Ethics Commission for instance (see below), BIPT systematically analyses the impact each new task entrusted to it, would have on the human and financial resources.

INTERNATIONAL BENCHMARK

The position taken by Belgium in the chart below shows that BIPT has an important shortage of academic staff to fulfil its tasks. Even though regulation depends only in a limited way on the size of a country (not as far as surface or economic size is concerned), BIPT does want to make the comparison with a neighbouring country, e.g. the Netherlands, that has about the same size. Indeed the numbers speak for themselves: as to academic staff (cited in the ITU benchmarks as "professional staff") the Belgian regulator operates numerically with only 70% of the Dutch number of FTEs, whereas its set of tasks and its competence are much larger. As a matter of fact, it should be mentioned that the Dutch regulator is not in charge of spectrum monitoring and management, media aspects, R&TTE, nor any secretarial duties for the Consultative Committees and the Ethics Commission.

Total number of professional staff



Professional staff is understood to mean employees of academic level (level A).
[ITU World Telecommunication Regulatory Database data 2009]

CONTINUOUS TRAINING

In its strategic plan the BIPT Council stressed the importance it attaches to the knowhow of the BIPT officials and indicated that initiatives would be taken to continuously enhance that knowledge. To that end trainings were started again on 1 November 2010. Along with determining the organisational aspects of the department, its operational strategy was laid down:

- + make use of "Single Points of Contact" (SPOC), representing the various BIPT departments; they will be involved in determining the trainings that are necessary for their departments;
- + allow individual initiatives to request trainings;
- + formally determine in time and following a cooperation with the SPOCs a framework of competence for the various duties performed by the BIPT staff members.

In the last few weeks of 2010, the market exploration was started for two major trainings (one of an economic nature aimed at economists and lawyers, and the other one purely technical and addressing BIPT's technicians and technical heads of department). In addition, a third training regarding project management was planned for 2011.

EVALUATION SYSTEM

In the course of 2010 preparations were made to adapt the evaluation system that had been introduced in 2007. As planned, the functioning of the evaluation system was examined in cooperation with the trade unions, so that a series of proposals for improvement could be elaborated by mutual consent with them. These reforms should lead to greater efficiency thanks to the administrative lightening of the evaluation system (among other things by turning the half-yearly performance interviews into annual interviews, by prolonging the period in which to achieve the goals set and by relaxing the internal directives regarding the motivation).

The adaptations considered do not have any budgetary impact. They should contribute to greater efficiency in the evaluation system; the purpose being to adapt the structure of each individual official's guidance in a spirit of encouragement.



REGULATION ASPECTS

In 2010 the file of the linguistic levels and the linguistic framework was finalised: the Vaste Commissie voor Taaltoezicht (Standing Committee for Linguistic supervision) gave its approval for both draft Royal Decrees. As soon as the political situation is solved it will be possible to submit these texts for signature. In the same context the draft ministerial order can be mentioned that lays down which degrees give access by way of promotion to level A.

The new increased end-of-year bonus for officials was also made applicable to the BIPT staff in 2010.

A lot of work was also done to adapt the administrative and financial statuses of the personnel. Mainly, a lot of anomalies were eliminated and a number of innovations were introduced, also taking over a number of provisions from the status of the federal public office such as teleworking and an expansion of the services accepted for financial seniority.

At the end of 2010 the case of integrating the staff of the Office of the Ombudsman for the Postal Sector was submitted for final approval. The statutory appointment of these staff members will follow at the beginning of 2011.

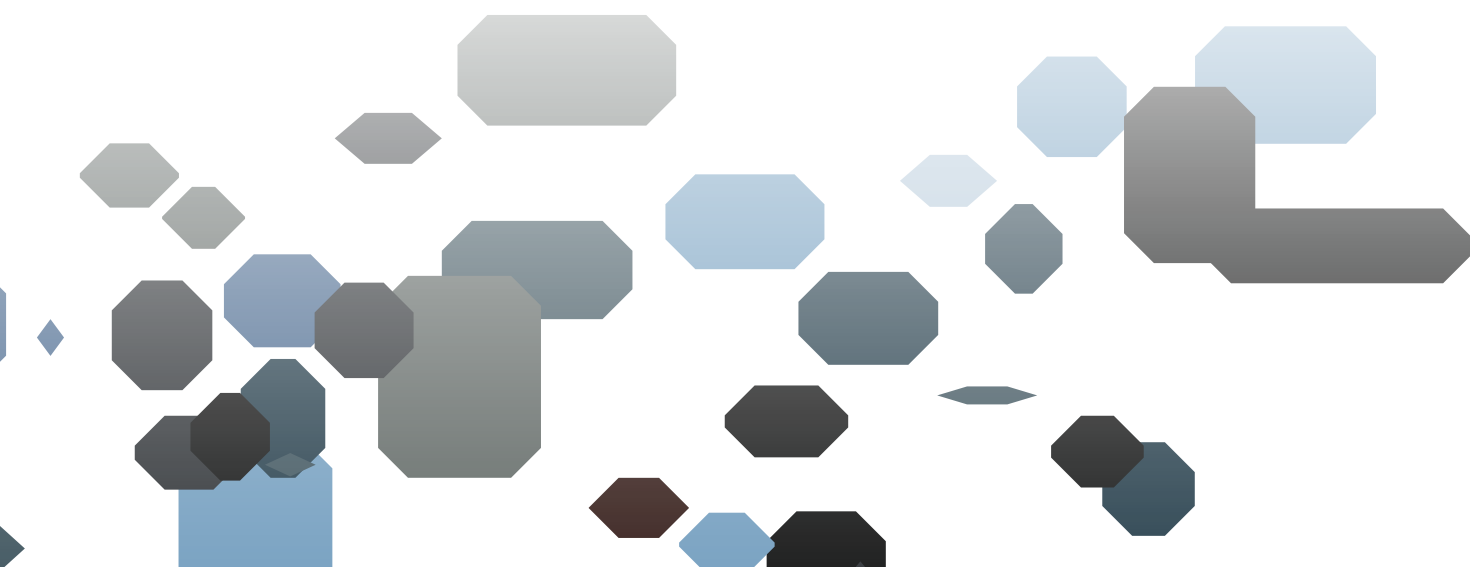
ICT EQUIPMENT

In 2010, BIPT continued its annual investments in the field of IT, security maintenance contracts (anti-virus software, servers, e-mail, anti-spam software, mail relay, etc.), the partial renewal of its computer fleet and its software licences.

The automation project for the Office of the Ombudsman for the Postal Sector was finalised successfully.

In 2010, numerous projects crystallised, e.g.:

- + a renewed intranet;
- + an internal instant messaging system;
- + a new policy for replacing the officials' equipment;
- + the coordination of the operators' critical contact data for the 'Justice' cells;
- + the migration to a higher version of the Microsoft Office Suit.



2010

Per 7,776 inhabitants there is a postal office or a Postal Point

24

THE POSTAL SECTOR

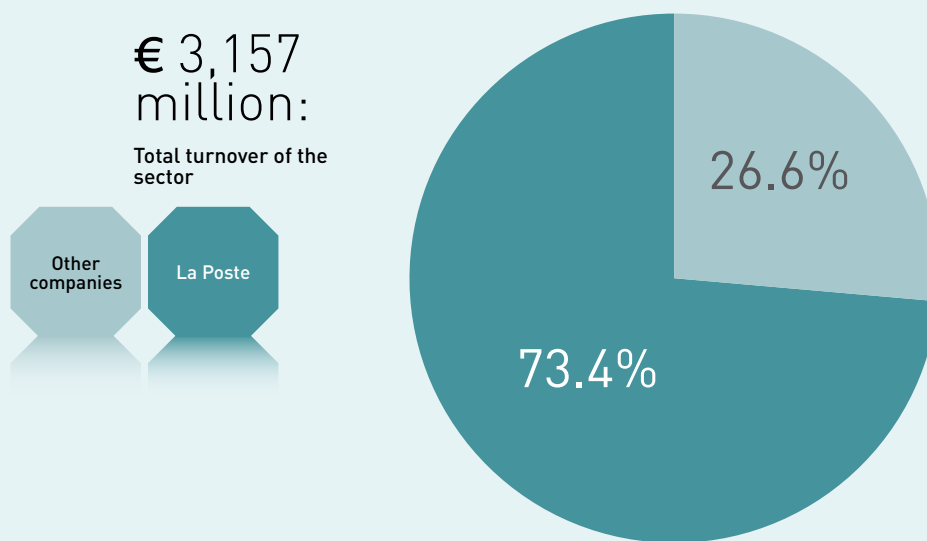
Key Figures

The number of letters (or any other kind of addressed mail) sent per month and per person in Belgium is 3.34 The average number of letters received per week is 9.67.

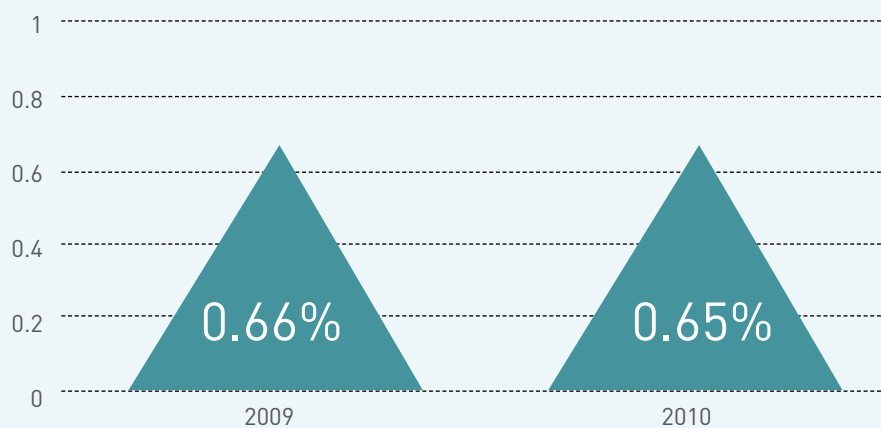
Source: BIPT survey 2010

One operator, La Poste, is in charge of the universal postal service.

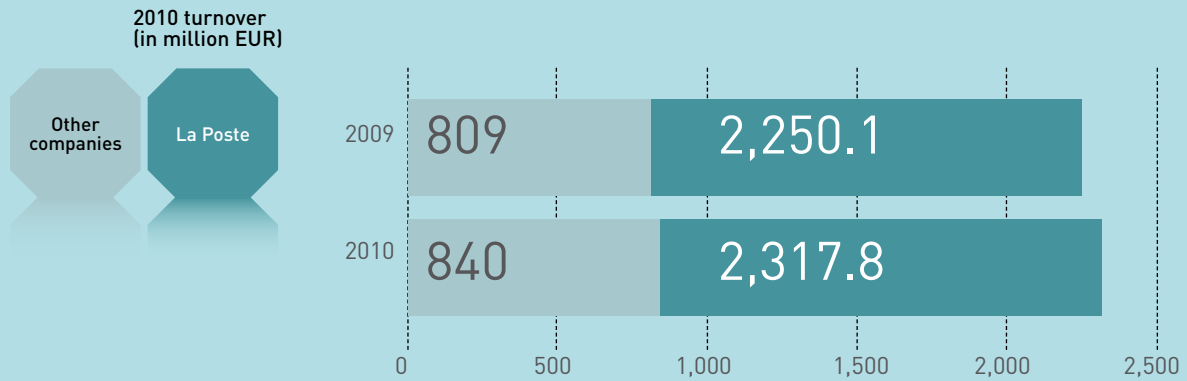
950 other companies are active in the postal sector, mainly in the express mail segment.



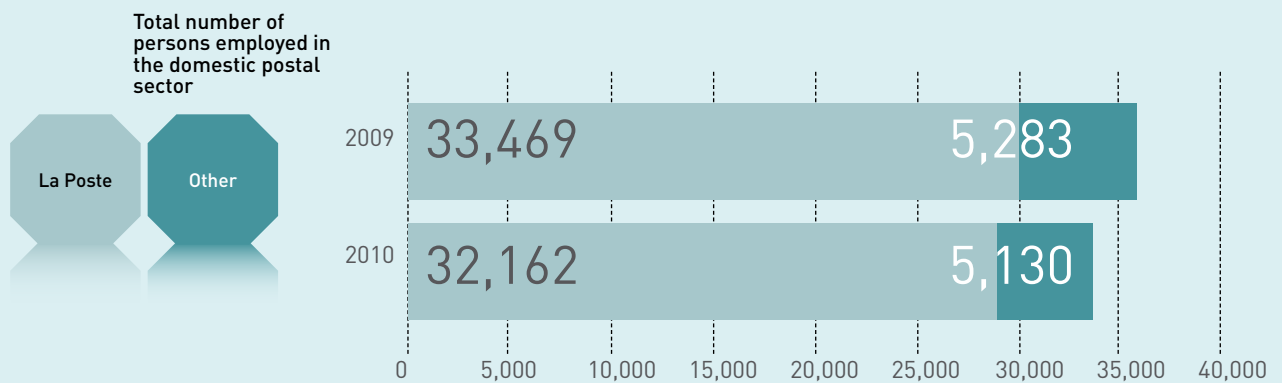
Turnover of the sector in % of the GDP



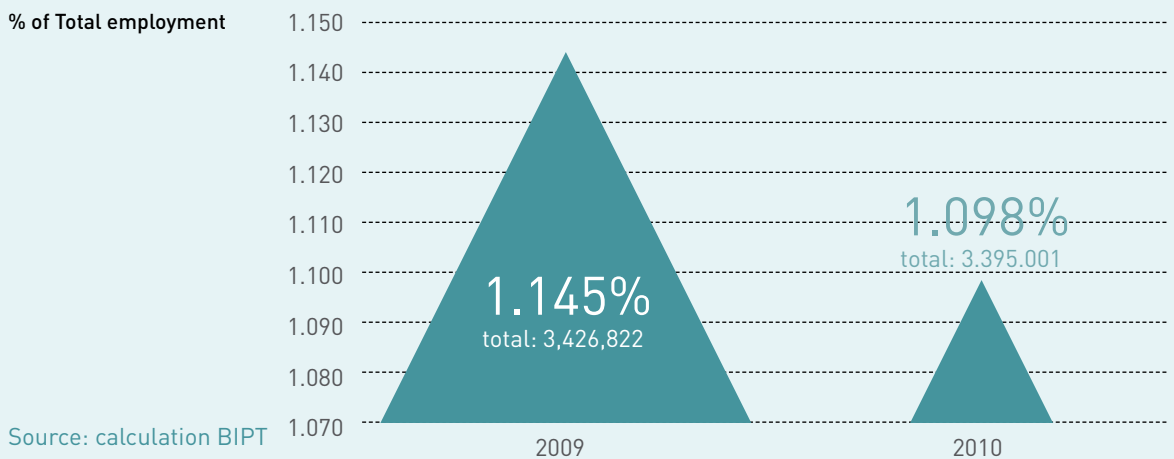
€ 3.157 million
Total turnover of the
sector



Source: National Bank of Belgium



Source: job distribution per sector, status and industrial activity according to the National Social Security Office



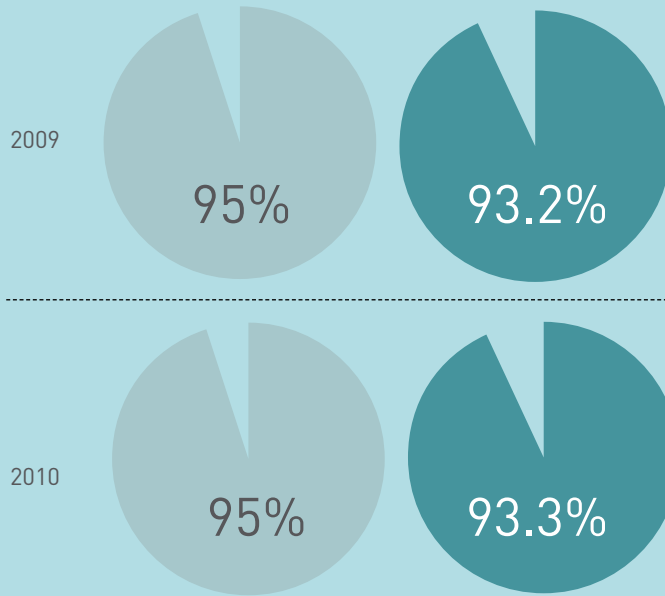
Source: calculation BIPT

2018

€ 840 million:
total turnover
express market

26

Quality: percentage of
priority letters delivered
on D+1



*this standard has been specified in the fourth management contract concluded between La Poste and the State
** Source: Belex

Profile of the express mail market in 2010

	Market total (in million EUR)	Distribution in %
Volume	114	
Turnover	840	
B2B	755	89.8%
B2C	86	10.2%
"Economy"	183	21.8%
"Premium"	657	78.2%
Domestic	355	42.3%
International	485	57.7%

B2B: Business to Business
B2C: Business to consumer

Economy: cheapest product range
Premium: most expensive product range

8. ARTICLE 21 OF DIRECTIVE 2008/06/EC PROVIDES THAT THE EUROPEAN COMMISSION SHALL BE ASSISTED BY A COMMITTEE. THE "POSTAL DIRECTIVE COMMITTEE" FOLLOWS THE DEVELOPMENTS IN THE PROVISION OF POSTAL SERVICES IN THE MEMBER STATES.
9. [HTTP://EC.EUROPA.EU/INTERNAL_MARKET/POST/STUDIES_EN.HTM](http://ec.europa.eu/internal_market/post/studies_en.htm)

10. ACT OF 13 DECEMBER 2010 AMENDING THE ACT OF 21 MARCH 1991 ON THE REFORM OF CERTAIN ECONOMIC PUBLIC COMPANIES, THE ACT OF 17 JANUARY 2003 ON THE STATUS OF THE REGULATOR OF THE BELGIAN POSTAL AND TELECOMMUNICATIONS SECTORS AND AMENDING THE ACT OF 9 JULY 2001 LAYING DOWN CERTAIN RULES REGARDING THE LEGAL FRAMEWORK FOR ELECTRONIC SIGNATURES AND CERTIFICATION SERVICES (BELGIAN OFFICIAL GAZETTE OF 31 DECEMBER 2010).

Legal and regulatory framework on the eve of liberalisation

2010 marks a turnaround in the postal sector. The Directive of the European Parliament and the Council of 20 February 2008 amending Directive 97/67/EC with regard to the full accomplishment of the internal market of Community postal services forces Belgium to transpose it before 31 December 2010. Both at the European and national level work is done for the transition from a partially liberalised to a fully liberalised postal market.

AT THE EUROPEAN LEVEL

On 10 August 2010 the European Regulators Group for Postal Services (ERGP) was established by the European Commission.

Directive 2008/06/EC lays down that the European Commission should provide assistance to the Member States for the implementation of that directive, including on the calculation of the net cost of the universal service.

This was realised through the "Postal Directive Committee"⁸, which treated various themes in working groups in the course of the year. BIPT attended the session in June 2010, where among other things the issues of cross-border items and intangible benefits were discussed. On 9 December 2010, BIPT participated in working groups relating to public procurement in the postal sector and the VAT issue.

BIPT also participated actively in workshops organised by the European Commission, which focused on a number of studies carried out by external consultants and commissioned by the European Commission regarding the external dimension of the postal acquis and the main developments in the postal sector. These studies can be consulted on the European Commission's website⁹, namely:

- + "*The main developments in the postal sector 2008-2010*", by Copenhagen Economics;
- + "*External dimension of the EU postal acquis*", by WIK Consult & James I. Campbell.

AT THE BELGIAN LEVEL

Belgium has transposed Directive 2008/06/EC of the European Parliament and the Council of 20 February 2008 amending Directive 97/67/EC with regard to the full accomplishment of the internal market of Community postal services in Belgian law before the deadline set. The preparatory work was done in 2009 and 2010.

In 2009, a preliminary bill was formulated amending the Act of 21 March 1991 on the reform of certain economic public companies and the Act of 17 January 2003 on the status of the regulator of the Belgian postal and telecommunications sectors, which was approved by the Council of Ministers on 17 December 2009 (bill transposing the Third Postal Directive). On 18 December 2009, the Minister of Enterprise and Simplification submitted the preliminary bill to the Council of State for advice. In 2010, work on the transposition of Third Postal Directive was continued. The Council of State delivered its advisory opinion on 22 February 2010 (advisory opinion 47.625/4). After having adapted the preliminary bills to that opinion negotiations about the texts were continued at government level in March and April. The bills were finally approved at the Council of Ministers' session of 3 September 2010. They were submitted to Parliament on 22 September 2010 and approved in the Chamber and Senate respectively on 18 November 2010 and 22 November 2010. The bills transposing the Third Postal Directive were published in the Belgian Official Gazette on 30 and 31 December 2010¹⁰.

During the activities mentioned above BIPT:

- + offered advice on its own initiative or at the request of the Minister on certain aspects of the Third Postal Directive;
- + gave technical and legislative support to and followed the governmental negotiations (working groups between private offices of the ministers) when so desired by the Minister and the Government.

11. INTERLOCUTORY JUDGMENTS PRONOUNCED BY THE 18TH CHAMBER OF THE BRUSSELS COURT OF APPEAL ON 25 MARCH 2010. JUDGMENT No 2009/AR/176 REGARDING DHL INTERNATIONAL, JUDGMENT No 2009/AR/177 REGARDING EXPRESS LINE AND JUDGMENT No 2009/AR/178 REGARDING DHL EXPRESS.
12. JUDGMENT PRONOUNCED BY THE 18TH CHAMBER OF THE BRUSSELS COURT OF APPEAL IN CASE 2007/AR/2742 UNITED PARCEL SERVICE VS BIPT.

13. JUDGMENT BY THE 11TH CHAMBER OF THE NIVELLES COMMERCIAL COURT IN CASE 08/2323/A BIPT VS FLASH LINE SERVICE.
14. DECISION OF THE BIPT COUNCIL OF 29 JUNE 2010.
15. DECISION OF THE BIPT COUNCIL OF 7 DECEMBER 2010.

In preparation of the publication and coming into force of this Act, BIPT prepared an information campaign both for the public at large and the postal service providers by:

- + adapting the website in light of the situation changed;
- + drawing up an information leaflet explaining the new licensing terms and legal obligations for the postal providers;
- + personally addressing the existing licence holders and the market players who had submitted a declaration for non-universal postal services in the past. In this letter emphasis was put on the impact the Act mentioned above has on their postal service provision;
- + planning individual info sessions aimed at clarifying the new legal licensing framework;
- + drawing up information forms to the existing licence holders and a new application form for new entrants.

Declarations and individual licences

Although the licensing and declaration system was profoundly changed by the Act of 13 December 2010 BIPT continued in 2010 to see to it that these obligations were maintained awaiting the coming into force of the Act mentioned above.

Indeed, BIPT continued the actions regarding the obligation for postal companies to observe the law concerning declarations and licences, and where necessary, it started procedures with a view to giving notice of default to any companies that refused to comply.

The fact that value added services, such as express mail services, should be regarded as full postal services falling within the scope of the postal legislation, was made clear by the Brussels Court of Appeal in the judgements of 25 March 2010. The Court ruled that the services provided by the plaintiffs, DHL International – DHL Express and Express Line, can be considered to be (non-universal) postal services, even if they do not perform end-to-end postal services.¹¹ Therefore, these companies are obliged to declare the postal services they provide to BIPT. The judgment builds on the Court of Appeal's judgment of 3 December 2009, where the judge arrived at a similar conclusion in a legal action instituted by United Parcel Service¹².

Earlier that year, on 19 January 2010, the Nivelles Commercial Court ruled that Flash Line Service also provides a postal service that is subject to the requirement of declaration¹³.

Monitoring, quality of service and tariffs

CONTRIBUTIONS FOR THE OFFICE OF THE OMBUDSMAN FOR THE POSTAL SECTOR

BIPT ensures the correct funding of the Office of the Ombudsman for the Postal Sector. The invoices containing the 2010 contributions for the Office of the Ombudsman were sent to guarantee the funding of that Office. The administrative procedures based on Article 21 of the Act of 11 January 2006 were started for those companies that refuse to contribute financially. This resulted in two companies, namely Day By Day Courier Service¹⁴ and C.I.T.Express Logistics¹⁵, being imposed an administrative fine, because they failed to provide BIPT with the information needed to calculate the contribution to the Office of the Ombudsman.

16. SEE ARTICLES 16 AND 18 OF THE FOURTH MANAGEMENT CONTRACT CONCLUDED BETWEEN THE STATE AND LA POSTE, PUBLIC LIMITED COMPANY UNDER PUBLIC LAW, BELGIAN OFFICIAL GAZETTE, 20 DECEMBER 2005, APPROVED BY THE ROYAL DECREE OF 23 DECEMBER 2005. THE FOURTH MANAGEMENT CONTRACT EXPIRED ON 23 SEPTEMBER 2010, BUT IT WAS EXTENDED BY LAW UNTIL A NEW MANAGEMENT CAME INTO FORCE (BELGIAN OFFICIAL GAZETTE, 23 SEPTEMBER 2010).
 17. THE SMALL USERS BASKET CONSISTS OF THE FOLLOWING FIVE SERVICES: DOMESTIC PRIORITY SINGLE PIECE LETTER POST, DOMESTIC NON-PRIORITY SINGLE PIECE LETTER POST, DOMESTIC REGISTERED SINGLE PIECE ITEMS, DOMESTIC SINGLE PIECE POSTAL PARCELS AND INCOMING PRIORITY CROSS-BORDER SINGLE PIECE LETTER POST ITEMS.

18. EUROPEAN COMMITTEE FOR STANDARDISATION. THIS IS THE ORGANISATION THAT IS RESPONSIBLE IN EUROPE FOR DEVELOPING EUROPEAN STANDARDS, INCLUDING POSTAL STANDARDS EN 13850 (POSTAL SERVICES – QUALITY OF SERVICES – MEASUREMENT OF THE QUALITY OF END-TO-END SERVICES FOR PRIORITY MAIL) AND EN 14508 (POSTAL SERVICES – QUALITY OF SERVICE – MEASUREMENT OF THE TRANSIT TIME OF END-TO-END SERVICES FOR SINGLE PIECE NON-PRIORITY MAIL AND SECOND CLASS MAIL).
 19. IPC: INTERNATIONAL POST CORPORATION IS AN ASSOCIATION OF 24 POSTAL OPERATORS FROM EUROPE, AMERICA AND ASIA.

THE MANAGEMENT CONTRACT BETWEEN THE STATE AND LA POSTE

As stipulated in the management contract¹⁶ BIPT is tasked with monitoring that contract, especially as regards La Poste’s obligations concerning customer satisfaction and letter post transport.

QUALITY CHECK

The Belgian regulatory framework provides for quality checks regarding the universal service in order to guarantee a high-quality postal service provision for the users.

Therefore, La Poste has to make sure that 90% of domestic priority single piece items are delivered on the first working day following the day these were posted before the last useful post-box collection. At least 95% of postal items that are part of the small users basket¹⁷ have to be delivered in time.

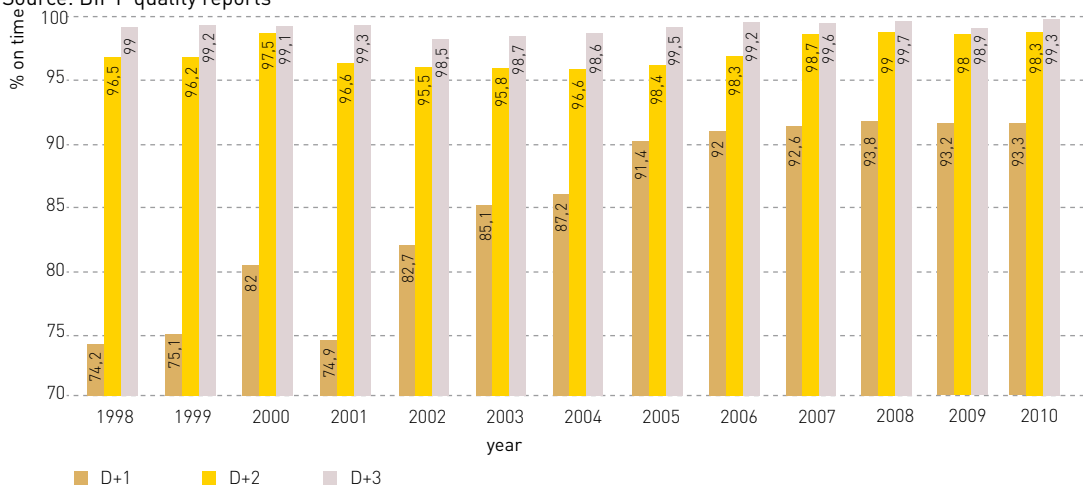
The transit times are checked for the following five services:

- + domestic priority single piece mail;
- + domestic non-priority single piece mail;
- + incoming priority cross-border single piece letter post;
- + domestic registered single piece mail;
- + domestic single piece postal parcels.

Compliance with the transit times of priority and non-priority single piece postal items is monitored by the external market research company "GfK Audimetrie" in accordance with the European CEN standards¹⁸. For incoming cross-border single piece postal items the measuring system is coordinated by IPC¹⁹, an external market research company. The transit times for single piece postal parcels and registered items are monitored by La Poste’s internal measuring system based on data of the internal barcode system.

The results regarding priority items in 2010 show that 93.3% of domestic priority items reached its destination at Day + 1 and 98.3% at Day + 2. As regards the non-priority items for that same period, 98.2% of domestic non-priority items were delivered at Day + 2 and 99.4% at Day + 3. During these twelve months 65,222 priority and 7,683 non-priority test letters were sent.

Results of the transit time monitoring for priority items since the BIPT inspections of 1998
 Source: BIPT-quality reports



2010

95.2%
the average quality
reached

30

In the table below the results of the transit times regarding small user services are given. The overall result of 95.2% is the average quality reached in 2010.

General quality regarding the observation of the delivery time
Source: BIPT-quality reports

Category + Time	Ponderation	Result
Prior D + 1	39.8	93.3
Non Prior D + 2	30.4	98.2
Incoming international letter post D + 1	25	94.4
Registered items D + 1	4.6	95.3
Postal parcels D + 2	0.2	98.8
TOTAL QUALITY INDEX	100	95.2

A penalty system has been established in case of non-compliance with the transit time of domestic priority single piece postal items, where the delivery goal for day + 1 is 90% minimum. La Poste achieves that goal. The total quality index for the small users basket is 95.2%. The fourth management contract provides for a 2.67% quality bonus in that case. This means that La Poste can raise the postal tariffs in the small users basket by 2.67% extra added to the health price index and the margins transferred.

CUSTOMER SATISFACTION SURVEY

BIPT monitors the customer satisfaction measurements carried out by La Poste for its public service tasks. This customer satisfaction survey makes it possible to verify to what extent private and business customers are happy with La Poste's service provision. Though the fourth management contract does not lay down any customer satisfaction standards La Poste is required to establish and implement an annual action plan for the points in the customer satisfaction survey that leave room for improvement.

Satisfaction is determined based on 11 satisfaction indices.

The first index is "general satisfaction" and is an answer to the question: "In general, how satisfied are you about La Poste?"

The ten other satisfaction scores relate to specific areas of investigation. For each area of investigation various questions are asked. The table below shows the results for each domain:

- + sending and receiving letter post;
- + sending and receiving parcels;
- + receiving papers and periodicals;
- + registered items;
- + client information;
- + the physical state of the post office;
- + the service in the post office;
- + the Postal Points;
- + the E-Shop;
- + the customer service

	Private persons							Companies						
	2004*	2005*	2006*	2007	2008	2009	2010	2004*	2005*	2006*	2007	2008	2009	2010
General satisfaction	74	75	76	75	82	81	83	75	79	81	82	82	84	81
Sending - receiving letter post	79	81	83	84	86	86	86	69	69	71	73	75	77	81
Sending - receiving parcels	94	94	96	94	92	94	92	81	83	86	88	88	89	90
Receiving papers & periodicals	94	95	96	94	89	93	92	79	78	77	81	87	88	88
Registered items	70	71	77	72	73	74	75	68	68	67	71	73	75	77
Client information	70	69	74	74	77	79	82	66	66	71	72	70	70	78
Physical state of the post office	70	71	74	74	75	75	77	66	66	67	74	72	72	76
Service in post office	77	76	81	79	79	79	84	68	65	71	72	73	74	78
Postal Point	-	-	-	90	86	87	89	-	-	-	90	87	84	83
E-Shop	-	-	-	100	93	85	88	-	-	-	88	93	95	90
Customer service	-	-	-	73	71	69	73	-	-	-	56	53	72	63

% satisfaction (score 5-7)

* Customer satisfaction measurement based on the new method (recalculation of the 2003 to 2006 figures according to the new method).

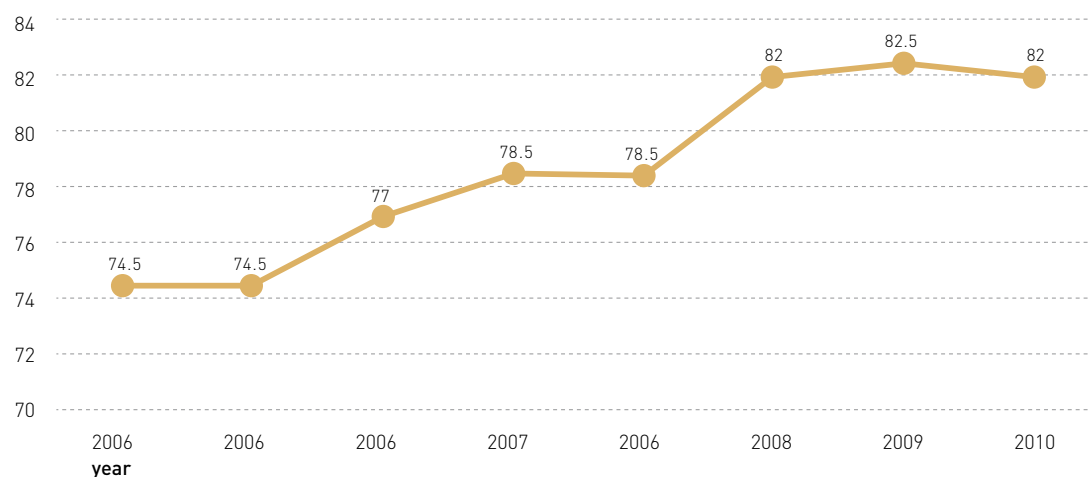
Source: results satisfaction survey La Poste 2010 and 2011 action plan

The highest scores are recorded for sending and receiving parcels and for delivering newspapers and periodicals. La Poste's weakest scores are for the customer service, registered items and the post offices' physical state.

The figure below shows the evolution of La Poste's general customer satisfaction.²⁰ Based on this graph we can see that since the first measurement in 2003 the general customer satisfaction has risen from 74.5% to 82% in 2010. In 2010, satisfaction showed a 0.5% decrease compared to 2009.

General customer satisfaction

Source: BIPT



21. CONSULTATION AVAILABLE ON THE BIPT WEBSITE:
[HTTP://WWW.BIPT.BE/SHOWDOC.
ASPX?OBJECTID=3380&LANG=NL](http://www.bipt.be/ShowDoc.aspx?OBJECTID=3380&LANG=NL)

22. SUMMARY OF THE REACTIONS TO THE PUBLIC CONSULTATION OF 12 NOVEMBER 2009 ON THE SPECIAL TARIFFS OF LA POSTE FOR THE SERVICES INTENDED FOR NON-RESIDENTIAL CUSTOMERS, BULK MAILERS OR CONSOLIDATORS SUMMARY OF THE REACTIONS TO THE PUBLIC CONSULTATION OF 12 NOVEMBER 2009 ON THE SPECIAL TARIFFS OF LA POSTE FOR THE SERVICES INTENDED FOR NON-RESIDENTIAL CUSTOMERS, BULK MAILERS OR CONSOLIDATORS

32

The practical rules of the penalty system contained in the fourth management contract have not been established yet. However, in 2010, BIPT formulated an opinion about the action plan for the elements that could be improved and about the report regarding the implementation of the action plan.

TARIFFS

BIPT has the duty to approve La Poste's tariffs afterwards, both for the single piece tariffs frequently used by SMEs and private persons (the postal services included in the so-called small users basket), and the tariffs laid down in a convention for the deposit of large mail volumes.

BIPT gave its a posteriori approval²¹ to La Poste's tariff increases in 2009 and 2010 for the services in the small users basket and for the preferential and conventional services reserved for La Poste, in accordance with Article 33 of the Royal Decree implementing Title IV of the Act of 21 March 1991 on the reform of certain economic public companies.

For the pricing of both types of services separate systems apply.

As to single piece item tariffs the small users basket is the point of departure:

The small users basket is a basket of postal services mainly used by residential customers, self-employed and small companies and the annual price increases of which are restricted via a specific formula. Indeed, if a number of conditions set by La Poste are fulfilled it is possible to enjoy a cheaper preferential tariff. Direct customers such as banks, department stores and mail-order firms that frequently deliver large volumes for distribution through the public network, may enjoy the conventional tariffs.

For the conventional tariffs La Poste used a "*per sender*" model in 2010.

The "*per sender*" model for pricing the services provided to business customers, bulk mailers or intermediaries does not calculate the commercial discounts to mail handlers on the basis of the total volume deposited with La Poste, but per sender.

BIPT consulted the sector as early as 12 November 2009 on the application and impact of this pricing model. The summary of the reactions can be consulted on the BIPT website.²²

Following this consultation the "*per sender*" model was submitted to a thorough investigation by BIPT in 2010. A study on both the economic and legal elements was carried out by the consultancy firm WIK Consult in cooperation with the CRID university centre. La Poste's point of view was asked concerning the suspicion formulated by BIPT about a breach of the pricing transparency and non-discrimination principle.

Universal service: calculation of the net costs and user survey

Article 144septies of the Act of 21 March 1991 on the reform of certain economic public companies stipulates that La Poste's separate accounts have to be examined by a competent body that is independent of the universal service provider.

The question which competent, independent body should carry out this examination is specified in Article 10 of the Royal Decree of 11 January 2006 implementing Title IV (Reform of the "Postal Authority/Regie der Posterijen") of the Act of 21 March 1991 on the reform of certain economic public companies, namely the Supervisory Board.

The audit relates to the observance of the rules laid down in Articles 144quinquies and 144sexies of the Act mentioned above, and also in Articles 8 and 9 of the decree mentioned above.

BIPT is responsible for examining the net cost of the universal service obligations. BIPT has started to calculate the cost of the universal service for 2009.²³ For 2009 the universal service has proved to be profitable. As a consequence there is no need to consider any intangible benefits or any other element based on which the net cost of the universal service can be determined and the more so any element to reveal the unfair nature of this cost for La Poste.

BIPT has listened to the market players, private customers and business users. The results of two telephone surveys held among a sample of each time 3,000 successful answers were published in 2010. The first survey concerned the behaviour and wishes of the residential customers relating to the universal postal service in Belgium. The second one related to the wishes of business customers regarding postal services.

The results are described summarily here:

Residential customers:

The results of the survey show that generally speaking customers indicate they are happy about the services included in the universal postal service. One of the survey's findings that is most clear is the low number of residential customers using the services of operators other than La Poste. It should be noted, however, that up to now the other universal postal service providers have hardly shown themselves to "small" users, considering the area that is still reserved to La Poste (postal items weighing less than 50 gr).

The number of letters sent per person is low (3.34/person/month). However, the number of letters received is four times higher and catches up with the European average. The volume diminishes compared to the 2006 survey.

As to prices customers are divided: half of them declares that the price requested is correct for a letter, while a third of them considers parcels too expensive. It is therefore justified to wonder about the reality of meeting the affordability obligation of the universal service products.

Users clearly attach importance to the quality of service of the transit time, but that importance is smaller than the one resulting from the previous survey.

As far as the wishes are concerned, users attach little importance to the time of day when the postman passes by, but more so to the opening hours of post offices and a daily frequency of mail delivery.

2010

3.34/person/
month:
the number of letters
sent per person

34

According to this survey the innovation of the Postal Points seems to be welcomed by users, who give satisfaction scores very close to the scores given to post offices. Users do not complain about the fact that the offices are not nearby.

Overall the satisfaction rate towards La Poste is 7.4 on a scale of 10. This is identical to the rate observed in 2006 and it generally matches with the rate registered by La Poste under BIPT's supervision within the framework of the management contract.

Business customers:

On the eve of the postal market being fully liberalised we find that penetration of La Poste's competitors on the business postal market is low in Belgium. One of the most obvious observations ensuing from the survey, is the small number of respondents that use other operators beside La Poste since 90% are customers with La Poste.

The business customers' conservatism and loyalty to the incumbent is beyond doubt.

It should be no surprise that a comparison between the 2007 and the 2010 data shows the volumes are diminishing.

The results of the survey show that generally speaking business customers indicate they are happy about the services included in the universal postal service.

While the companies are generally satisfied with the delivery frequency of the postal items, this is not the case for the time of the delivery. More than a third of the respondents are in favour of a delivery earlier in the day.

Although the general satisfaction about the location of post offices and Postal Points is high, the issue of queuing times was stressed, an issue that had already been put forward by residential customers.

As for products and services companies receive more letters than they send. The price is considered "correct" for the greater part.

In the case of parcels we find that the transit times are important. According to business users the prices range from "correct" to "expensive".

Overall La Poste scores 7.16 on a scale of 10 for satisfaction, which is slightly more than the 2007 score (7.05).

Finally the results obtained are not in favour of a complete reshuffling of the universal postal service as it is now provided. They rather indicate the areas in need of more attention. Among other things, we refer to the prices, the times at which the network is available and the time of delivery.



List of decisions, consultations and communications

Decisions in 2010	Publication date	Challenged in court
Decision of the BIPT Council of 12 November 2009 regarding the conformity of the cost accounting system of La Poste for 2006	26/01/2010	No
Decision of the BIPT Council of 29 June 2010 imposing an administrative penalty upon Day By Day Courier Service for non-compliance with Article 45ter, § 4 of the Act of 21 March 1991 on the reform of certain economic public companies	13/07/2010	No
Decision of the BIPT Council of 7 September 2010 regarding the analysis of the tariff proposal for full tariffs per piece for the year 2009	22/09/2010	No
Decision of the BIPT Council regarding the analysis of the tariff proposal for full tariffs per piece for the year 2010	22/09/2010	No
Consultations in 2010	Publication date	Number of respondents
Consultation on the analysis of the tariff proposal of individual full tariffs for the year 2010	14/04/2010	0
Consultation on the draft Decision of the BIPT Council of 5 October 2010 relating to the posterior approval of the tariff increases of the designated universal service provider, bpost, in 2009 for the reserved preferential and conventional services	23/12/2010	0
Consultation on the draft Decision of the BIPT Council of 5 October 2010 on monitoring the delivery times for 2008 of domestic priority single piece letter post items, domestic non-priority single piece letter post items, domestic registered single piece letter post items, domestic single piece postal parcels and incoming priority cross-border single piece letter post items	23/12/2010	0
Communications in 2010	Publication date	
Communication by the BIPT Council of 23 February 2010 on the results of the survey of November 2009 related to the behaviour and wishes of private individuals about the universal postal service in Belgium	24/03/2010	
Communication by the BIPT Council of 17 March 2010 regarding the limits of the declaration and licensing system	30/03/2010	
List of postal operators having been granted an individual licence for providing a non-reserved service that is part of the universal service	15/04/2010	



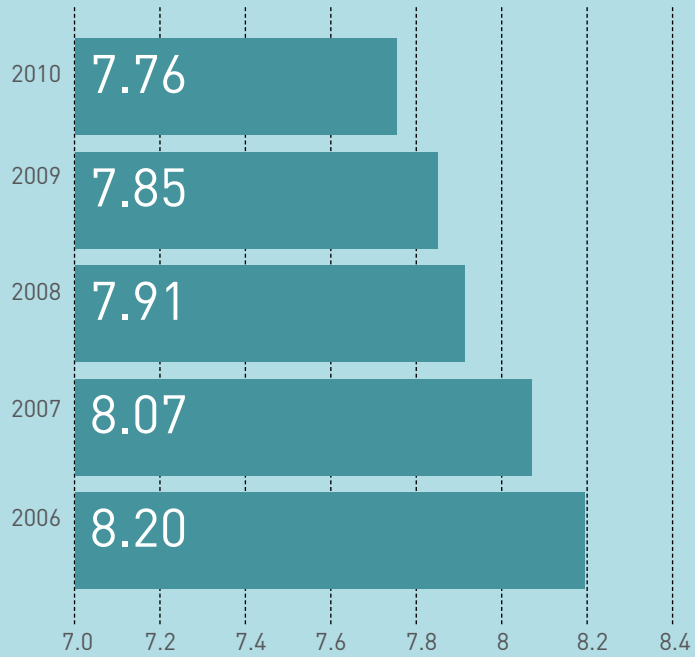
2010

24. OF 9 SELECTED OPERATORS: BELGACOM NV, KPN GROUP BELGIUM, BT LIMITED, COLT TELECOM, MOBISTAR ENTERPRISE SERVICES, MOBISTAR NV, NUMERICABLE, TELENET, VERIZON BELGIUM LUXEMBURG NV.
25. SAME AS PREVIOUS FOOTNOTE.

ELECTRONIC COMMUNICATIONS

Key figures

Turnover in fixed and mobile telecom services²⁴ (retail and wholesale, TV excluded, in billions of EUR)



Source: operators (BIPT)

Investments²⁵ (fixed and mobile)



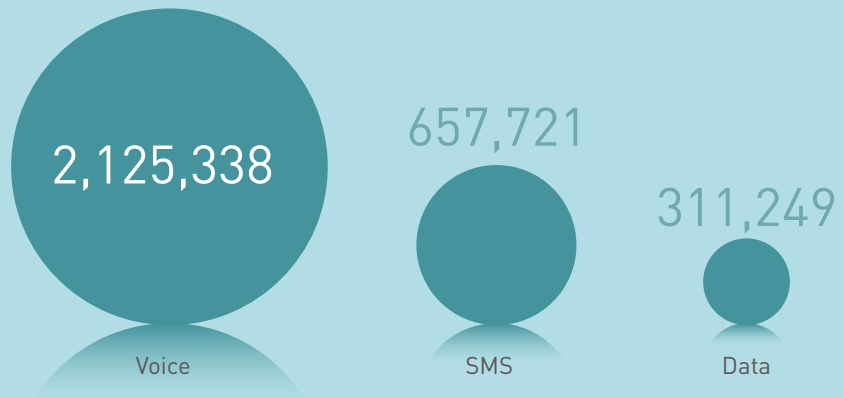
Source: operators (BIPT)

€ 1.2 billion
was invested
(excluding capitalisation
set-top boxes for digital
television).

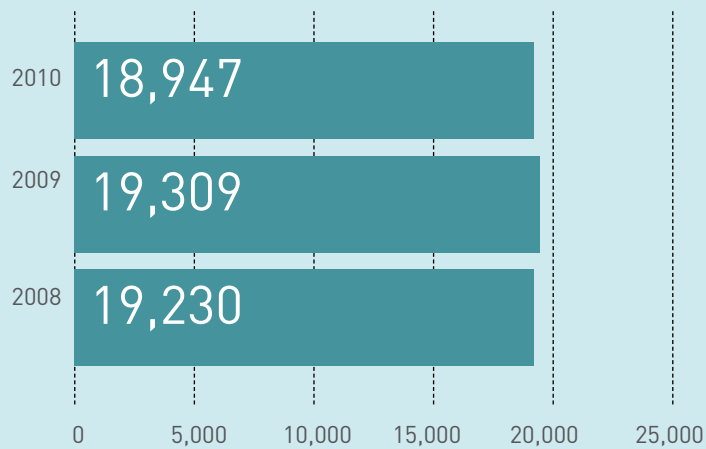
26. SAME AS PREVIOUS FOOTNOTE.

**Mobile retail revenue 2010
(in thousands of EUR)**

Mobile data + 4%
Text messages: +1%
Mobile voice: -8%



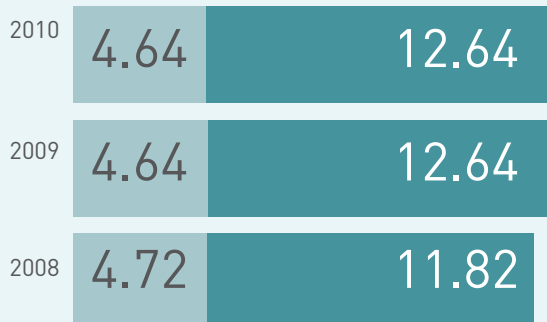
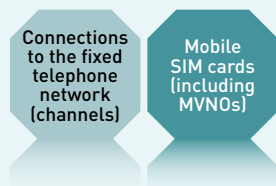
Staff²⁶



Source: operators (BIPT)

**Connections to the
fixed and mobile
telephone network (in
millions)**

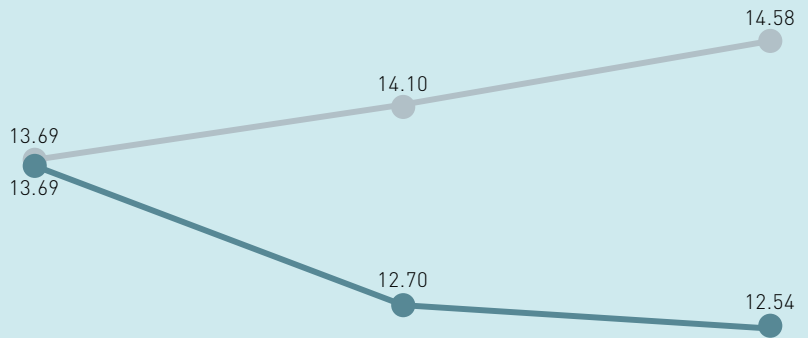
Number of access
channels remains
constant



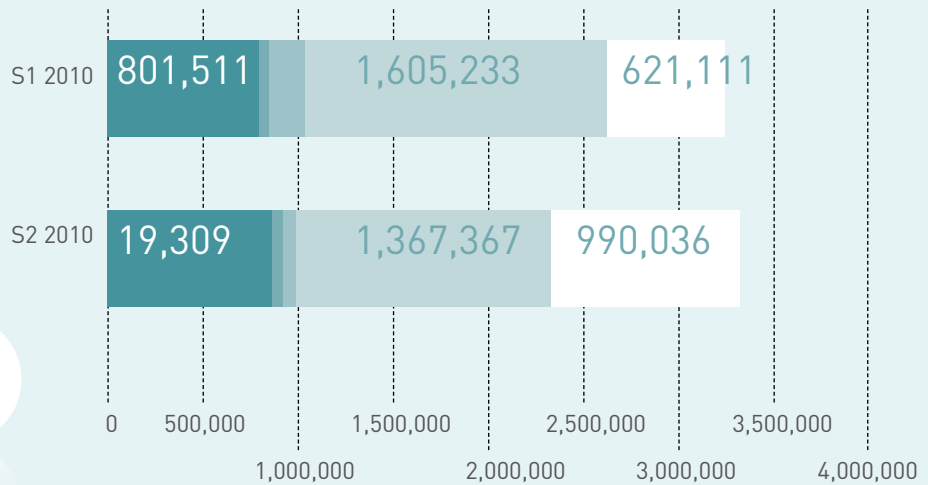
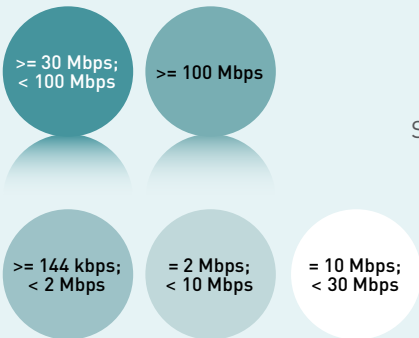
Connections to the fixed and mobile telephone network (in millions)
Continuous demand for cable



Minutes of outgoing voice telephony traffic (in billions of minutes)
Rise in the share of mobile outgoing voice traffic originated in Belgium: +54%



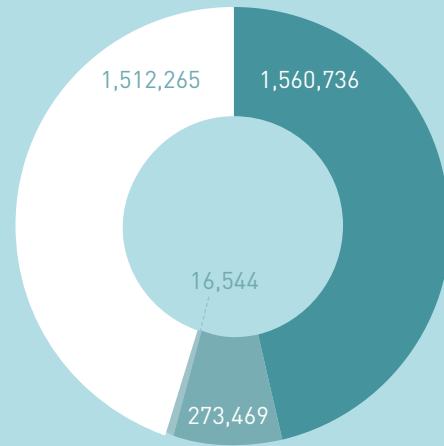
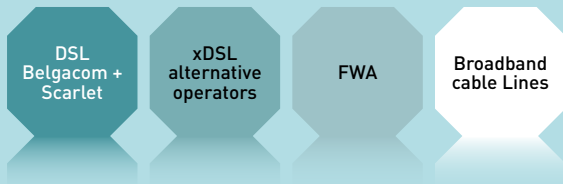
Speed of broadband connections



Source: ISPs (BIPT)

57% of all broadband Internet lines sold has a minimum speed of 10 Mbit/s

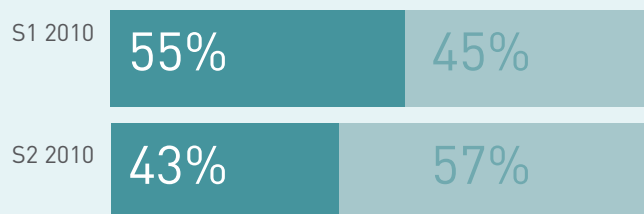
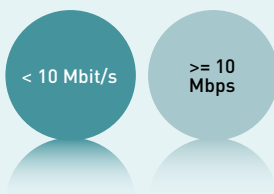
Retail broadband Internet
3.36 million broadband Internet customers – broadband penetration per 100 inhabitants



Bundles
Strong growth of residential triple play subscribers owing to the success of bundled offers including digital television.

	2009	2010	% difference
Double play	757,277	866,163	+40%
Triple play	520,807	939,468	+80%
Quadruple play	13,495	46,313	+243%

Speed of broadband connections



Source: ISPs (BIPT)

27. BELGIAN OFFICIAL GAZETTE, 20 JUNE 2005. REFERRED TO AS THE ACT OF 13 JUNE 2005 IN THE REST OF THE TEXT.
28. [HTTP://WWW.BIPT.BE/SHOWDOC.ASPX?OBJECTID=3378&LANG=NL](http://www.bipt.be/ShowDoc.aspx?OBJECTID=3378&LANG=NL)

29. AS TO BIPT THE FOLLOWING DOCUMENTS ARE INVOLVED:
- DRAFT DECISION OF THE BIPT COUNCIL REGARDING THE ANALYSIS OF THE TELEVISION BROADCASTING MARKET
[HTTP://WWW.BIPT.BE/SHOWDOC.ASPX?OBJECTID=3385&LANG=NL](http://www.bipt.be/ShowDoc.aspx?OBJECTID=3385&LANG=NL)
- DRAFT DECISION OF THE BIPT COUNCIL OF 20 DECEMBER 2010 REGARDING THE ANALYSIS OF THE BROADBAND MARKETS
[HTTP://WWW.BIPT.BE/SHOWDOC.ASPX?OBJECTID=3382&LANG=NL](http://www.bipt.be/ShowDoc.aspx?OBJECTID=3382&LANG=NL)

Legal and regulatory framework

Technological innovation continues to have a strong impact on the development of the regulatory regime. Digitisation for instance has made it possible to offer several types of services and content through networks of different kinds such as the cable network or the telephone line. At the same time, the Internet has become a global platform for a range of services. This convergence, made possible by the information and communication technology, has created new possibilities, which the European legal electronic communications framework has to take account of.

THE ELECTRONIC COMMUNICATIONS ACT THE COOPERATION AGREEMENT WITH THE COMMUNITIES

Belgium promulgated its Electronic Communications Act on 13 June 2005. The European directives subject all electronic transmission networks and services to the same regulatory framework on the basis of convergence. As in Belgium powers relating to broadcasting are shared with the Communities, the scope of the Act of 13 June 2005 on electronic communications was restricted to the telecommunications sector²⁷.

Belgium has to transpose Directives 2009/136/EC and 2009/140/EC. A consultation²⁸ on the subject was held in December 2010. According to the consultation document a large package of legislation is amended: the Act of 21 March 1991 on the reform of certain economic public companies, the Act of 17 January 2003 on the status of the regulator of the Belgian postal and telecommunications sectors, the Act of 17 January 2003 on the appeals and the settling of lawsuits following the Act of 17 January 2003 on the status of the regulator of the Belgian postal and telecommunications sectors, the Act of 11 March 2003 on certain legal aspects of information society services, the Act of 13 June 2005 on electronic communications and the Act of 25 April 2007 pertaining to various provisions.

The purpose of this new regulatory framework is a better operation of the telecommunications sector by strengthening competition and user rights. The new framework also opens up the possibility of creating universal service obligations relating to broadband. Finally it aims at strengthening the national regulatory authorities' independence and efficiency and at improving the general functioning of the European electronic communications market, encouraging innovation and investment. These texts need to be transposed into Belgian law by 25 May 2011.

Following the judgment of the Court of Arbitration of 14 July 2004 a cooperation agreement was concluded on 17 November 2006 between the Federal State and the three Communities, which arranges the management of electronic communications as far as it falls under a competence shared between the federal level and the Communities. At the end of September 2007 it came into force after having been approved by the respective legislative assemblies.

The various regulatory bodies have convened to draw up the CRC's internal regulations.

As far as regulation is concerned, the key principle of this agreement is that each competent authority is to inform the others of its draft decisions. The other regulators will then be given a short time span in which to examine them and if need be to respond by activating the cooperation procedure. In that case the Conference of Regulators (CRC), which is composed of the federal and community regulators, convenes to reach an agreement on the measure planned. If no consensus is reached, the matter can be taken up at political level and it will be up to the ministers of the respective governments to find an agreement then.

The CRC has quarterly meetings to exchange information and to discuss cases of common interest. In 2010, BIPT sent fifteen draft decisions to the community regulators (see table on page 83). This fruitful cooperation has also been translated into the common deposit of a series of draft decisions²⁹ organising the activities concerning broadband Internet and broadcasting (for more details, see pages 47-51).

DISPUTES

By way of its decisions BIPT wants the operators to be able to fight with the same weapons and have equal chances: the market players should have an economic and legal space in which to roll out their activities in a durable way. They evidently have the right to challenge the measures taken. Among the BIPT decisions challenged in the course of 2010 the following cases, which are especially important for the economic communications sector, deserve particular attention:

1. KPN Group Belgium NV and Mobistar NV brought actions for annulment and suspension of the Council Decision of 29 June 2010 regarding the market definition, the competitiveness analysis, the identification of SMP operators and the determination of appropriate remedies for market 7 (termination). Belgacom NV acted as an intervening party in that dispute;
2. Belgacom NV brought an action for annulment against the Decision of the BIPT Council of 28 June 2010 imposing an administrative penalty upon Belgacom for non-compliance with Article 108, § 2, of the Act of 13 June 2005 on electronic communications;
3. Belgacom NV brought an action for annulment against the Council Decision of 3 August 2010 regarding the BRUO Rental Fee;
4. Belgacom NV summoned BIPT and the Belgian State to appear before the Brussels Court of First Instance in order to challenge the payment of the fees for the 2G licence following the amendment of Article 30 of the Act of 13 June 2005 on electronic communications by the Act of 15 March 2010;
5. KPN Group Belgium NV challenged before the Brussels Court of Appeal the Decision of the BIPT Council of 10 August 2010 renewing the Decision of 11 August 2006 regarding the analysis of Market 16 (voice call termination on individual mobile networks), and then decided to abandon its challenge;
6. Belgacom NV challenged before the Brussels Court of Appeal the Decision of the BIPT Council of 29 September 2010 regarding the WBA VDSL2 profiles based on VDSL2 17 MHz, and then decided to abandon its challenge.

BIPT brought an action for annulment and suspension against the decisions of the French Community of 21 October 2010 regarding frequencies in the FM band.

In addition, in 2010 a number of notable rulings were passed in the following cases:

1. With its judgement of 19 March 2010 the Court of Cassation dismissed the appeal brought by Belgacom against the judgment of the Brussels Court of Appeal of 23 March 2007, which had rejected the action for annulment brought against the Decision of the BIPT Council of 12 November 2004 regarding Belgacom's reference offer for local loop unbundling – version 2005 BRUO 2005;
2. With its judgement of 1 April 2010 the Brussels Court of Appeal dismissed the action for annulment brought by Infrabel against the Decision of the BIPT Council of 26 March 2009 on the introduction of UMTS in the 880-915 MHz and 925-960 MHz frequency bands;
3. With its judgement of 22 April 2010 the Brussels Court of Appeal annulled the Decision of the BIPT Council of 25 June 2008 on BROBA 2008 ADSL 2+ rental fee;
4. With its judgement of 1 June 2010 the Brussels Court of Appeal partially annulled the Decision of the BIPT Council of 17 September 2009 in which inspection of the administrative BIPT file regarding the on-net tariffs of Belgacom Mobile was refused, and ordered the inspection of specific documents;
5. With its judgment of 7 September 2010 the Brussels Court of Appeal annulled the Decision of 22 April 2009 on the methodology to allocate the costs related to the database of the social element of the universal telecommunications service and to the calculation elements specific to the years 2006 and 2007;
6. With its judgment of 15 September 2010 the Brussels Court of Appeal rendered an interlocutory judgment on the composition of the administrative BIPT file within the framework of the actions for annulment and suspension of the Council Decision of 29 June 2010 regarding the market definition, the competitiveness analysis, the identification of SMP operators and the determination of appropriate remedies.

2010

15 draft decisions
transmitted to the
community regulators

42

BIPT has taken account of the Brussels Court of Appeal's case law to rectify a number of decisions that were partially or completely annulled:

1. On 14 September 2010, the BIPT Council adopted a renewal decision on the leased lines market analyses, after the Brussels Court of Appeal had completely nullified the decision of 17 January 2007 on the grounds that there had been no cooperation with the Community media regulators;
2. On 10 August 2010, the BIPT Council adopted a decision renewing the decision of 11 August 2006 regarding the analysis of Market 16 (voice call termination on individual mobile networks), after its partial annulment by the Brussels Court of Appeal.



30. IT IS CUSTOMARY TO INDICATE THE MARKETS BY THE NUMBER THEY WERE GIVEN IN THE RECOMMENDATIONS; BELOW THE MARKET NUMBERS OF THE FIRST RECOMMENDATION RECEIVE THE EXTENSION "[03]" AND THOSE FROM THE SECOND RECOMMENDATION "[07]".

Market analyses

The market analyses determine the obligations imposed on the electronic communications markets in order to guarantee fair competition between the players present; consequently, they constitute a key element of the applicable regulatory framework. The European Commission recommendations on relevant product and service markets susceptible to ex ante regulation list the markets to be analysed. Since the introduction of the 2002 regulatory framework the European Commission has published two such recommendations: the first dates from 11 February 2003 and comprises a list of 18 markets and the second one from 17 December 2007 with a list of 7 markets.³⁰ In the table below the relevant markets listed in both recommendations and the connection between both lists are shown. This is important as obligations on a market can only be lifted or amended by means of a new analysis; therefore after having formulated a new recommendation, it needs to be clear which relevant markets from the new recommendation match those from the former one.

Relevant markets from the 2003 Recommendation	Relevant markets from the 2007 Recommendation
1. Access to the public telephone network at a fixed location for residential customers	1. Access to the public telephone network at a fixed location for residential and non-residential customers
2. Access to the public telephone network at a fixed location for non-residential customers	
3. Publicly available local and/or national telephone services provided at a fixed location for residential customers	
4. Publicly available international telephone services provided at a fixed location for residential customers	
5. Publicly available local and/or national telephone services provided at a fixed location for non-residential customers	
6. Publicly available international telephone services provided at a fixed location for non-residential customers	
7. The minimum set of leased lines	
8. Call origination on the public telephone network provided at a fixed location	2. Call origination on the public telephone network provided at a fixed location
9. Call termination on individual public telephone networks provided at a fixed location	3. Call termination on individual public telephone networks provided at a fixed location
10. Transit services in the fixed public telephone network	
11. Wholesale unbundled access (including shared access) to metallic loops and subloops for the purpose of providing broadband and voice services	4. Wholesale (physical) network infrastructure access (including shared or fully unbundled access) at a fixed location
12. Wholesale broadband services	5. Wholesale broadband services
13. Wholesale terminating segments of leased lines.	6. Wholesale terminating segments of leased lines.
14. Wholesale trunk segments of leased lines.	
15. Access and call origination on public mobile telephone networks	
16. Voice call termination on individual mobile networks	7. Voice call termination on individual mobile networks
17. The wholesale national market for international roaming on public mobile networks.	
18. Broadcasting transmission services, to deliver broadcast content to end users.	

31. ARTICLE 2 OF COMMISSION RECOMMENDATION 2007/879/EC OF 17 DECEMBER 2007 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; OJ L 344, 28 DECEMBER 2007, PP 65-69.

32. THAT COMPETENCE WAS GRANTED BY THE ACT OF 13 JUNE 2005, AS AMENDED BY THE ACT OF 18 MAY 2009.

33. FROM THE MOMENT WHEN THE DECISIONS COME INTO EFFECT, AS OPPOSED TO "EX NUNC", I.E. FROM THE MOMENT THAT THE JUDGMENT BECOMES VALID. A DECISION NULLIFIED THAT WAY IS CONSIDERED NEVER TO HAVE COME INTO EFFECT.

Even if a market is removed from the European list BIPT can decide to continue to regulate it anyhow. Of course, this requires a market analysis showing that the conditions of competition in Belgium still require ex ante regulation and proving that the market concerned meets the three criteria test described in the 2003 and 2007 Recommendations cumulatively. Those three criteria are³¹:

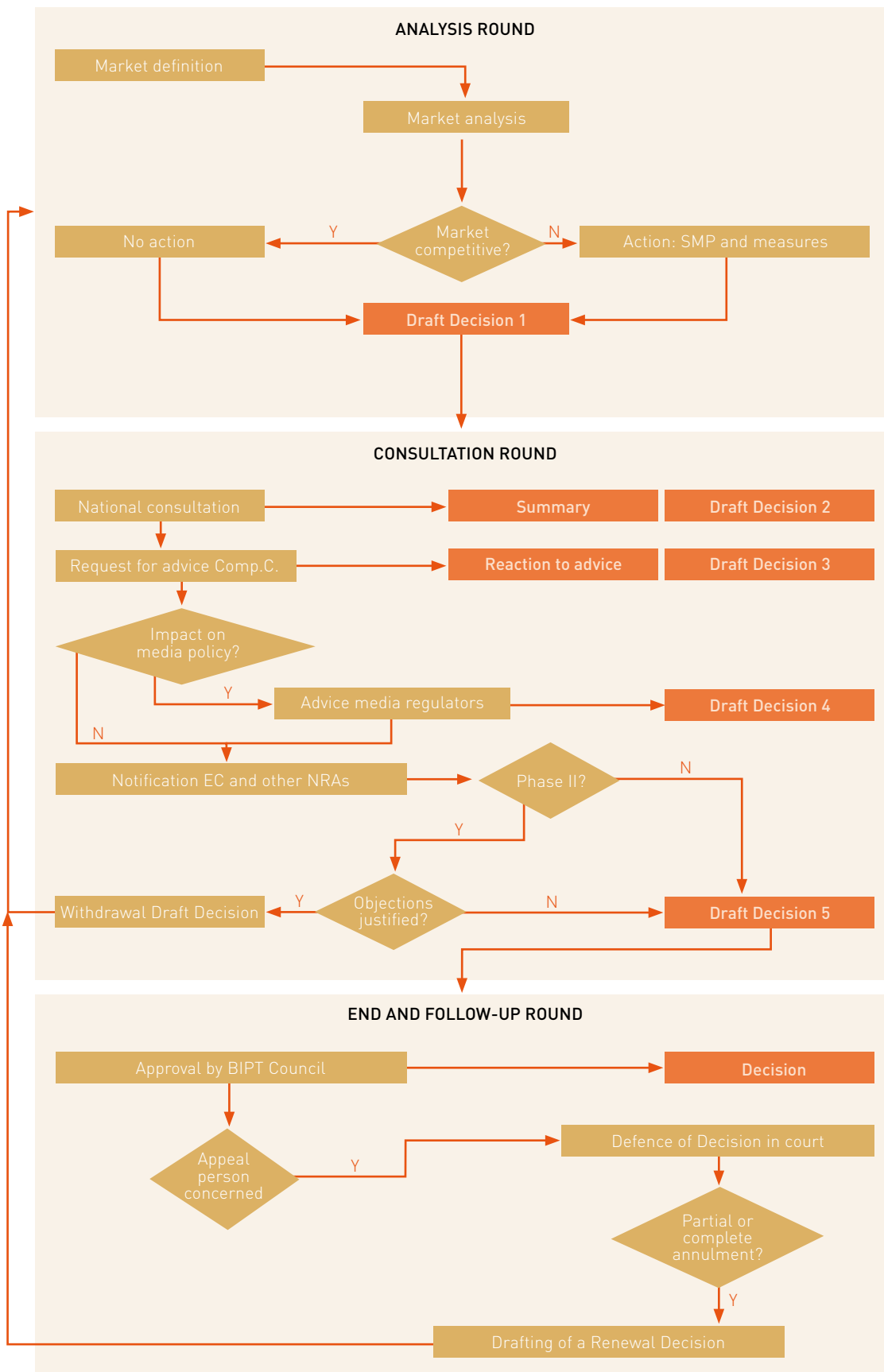
- + the presence of high and non-transitory barriers to entry. These may be of a structural, legal or regulatory nature;
- + the lack of dynamism, as a result of which the market in time tends towards effective competition, without a need for ex ante regulation;
- + the relative insufficiency of competition law.

The European Commission declared that this test does not need to be carried out for the markets listed in the recommendation unless the national regulatory authority wishes to prove that a market from the recommendation is not susceptible to ex ante regulation.

In general the market analysis procedure entails two rounds: the analysis and the consultation. The analysis round includes the market definition, the market analysis, the determination of companies with a significant market power (SMP) and the definition of obligations. The consultation round consists of submitting for consultation the draft decision drawn up during the analysis to, consecutively, the sector, the Competition Council, in some cases the media regulators, the European Commission and also the other national regulators.

The procedure does not end with the publication of the market analysis decision, though. The companies concerned are entitled to appeal to the Brussels Court of Appeal. That Court has already partially or totally annulled a great many BIPT decisions and forced it to adopt retroactive renewal decisions³². The purpose of these renewal decisions is to fill the legal void caused by the fact that the BIPT decisions are annulled *ex tunc*³³, and therefore are deemed never to have existed.

Below you will find a diagram of the steps taken in the course of the market analysis procedure.



The table below gives the state of affairs of the renewal decisions.

State of progress of the renewal decisions (situation on 31 December 2010)											
Basic market analysis	Round	Date of the decision	Judgment	Round	Stage						Deadline
					Analysis round	National consultation	Opinion Comp. Council	Opinion media regulators	European notification	Conclusion	
Market 11(03)	1	10-01-2008	2008/AR/787	2							02/09/2009
Market 12(03)	1	10-01-2008	2008/AR/787	2							02/09/2009
Market 7(03)	1	17-01-2007	2007/AR/930	2							14/09/2010
Market 13(03)	1	17-01-2007	2007/AR/930	2							14/09/2010
Market 14(03)	1	17-01-2007	2007/AR/930	2							14/09/2010
Market 16(03)	1	11-08-2006	2006/AR/2332-2628-2629	2							10/08/2010

Access cluster

In 2010, BIPT drew up a draft decision on the analysis of the markets for broadband access, which was submitted for consultation on 20 December 2010.

On the retail broadband market BIPT found that the rates were high compared to our neighbouring countries, that there is a clear consumer tendency towards bundles comprising digital TV and finally that the alternative operators' share on the retail market is decreasing.

In the market analysis of the broadband access markets BIPT analysed two wholesale markets: on the one hand "Wholesale (physical) network infrastructure access (including shared or fully unbundled access) at a fixed location" (Market 4) and on the other "Wholesale broadband access" (Market 5):

- + Market 4 was defined as a national market, comprising both full and partial unbundled access to both copper cables in the local loop and in the subloop (street cabinets).
- + Market 5 was also defined as a national market and comprises the various DSL technologies ADSL, ADSL2+, SDSL, VDSL2 and Reach Extended ADSL. Cable was not included in this market.

On both markets the conclusion was that Belgacom has significant market power.

This analysis resulted in a draft decision that aims to confirm the obligations imposed earlier on Belgacom, namely unbundled subloop access and the provision of bitstream access. For both types of access the inherent obligations regarding non-discrimination, transparency, separate accounting and cost orientation were confirmed again.

In that analysis the proposal is also made to impose a new obligation, namely the provision of access to the multicast functionality. This functionality would specifically enable alternative operators to offer triple play services (including TV, telephony and broadband Internet).

In addition, a few extra operational obligations were introduced, which should encourage Belgacom to strive for operational excellence in its wholesale service offered to alternative operators.

The former obligations regarding unbundled subloop access that had been imposed on Belgacom, are lifted, for lack of demand for such access, due to the high costs and the lack of economies of scale at the level of street cabinets and the negative impact of subloop unbundling on further technological evolutions (such as vectoring).

Fixed telephony cluster

On 8 September 2010 the Competition Council rendered its opinion on a BIPT draft decision on the market for transit services in the fixed public telephone network (Market 10(03) on the list of markets identified by the European Commission). The Competition Council agrees with BIPT's diagnosis that the three criteria test, which can justify the continuation of ex ante regulation, is not verified for the Belgian market for transit services (especially the second and the third criterion).

Leased lines cluster

The BIPT Council finished its renewal decision regarding the leased lines market analyses, after having submitted it to the media regulators for their opinions. Indeed, in its judgment of 15 October 2009 the Brussels Court of Appeal had completely nullified the decision of 17 January 2007 on the grounds that there had been no cooperation with the Community media regulators. The draft renewal decision was therefore submitted to the media regulators and they did not have any comments on that draft. Finally, on 14 September 2010 the BIPT decision was adopted.

Mobile cluster

After having consulted the sector the Competition Council and the European Commission, the BIPT Council adopted the decision regarding regulation of the Mobile Termination Rates ("Market 7") on 29 June 2010.

In accordance with the price cap mechanism established in that decision, the MTRs of the three Belgian mobile operators were cut down for the first time on 1 August 2010, and other cuts will follow on 1 January of 2011, 2012 and 2013, the final target being a rate of 1.08 eurocent/min. on 1 January 2013. The latter rate is a tariff based on the Long-Run Incremental Cost of a hypothetical efficient operator in Belgium. BIPT also aims to end the system of tariff asymmetry between the three mobile operators who are active in Belgium.

Evolution of termination rates

eurocent/min*	Before 01/08/2010	1/8/2010	1/1/2011	1/1/2012	1/1/2013
Belgacom Mobile / Proximus	7.20	4.52	3.83	2.46	1.08
Mobistar	9.02	4.94	4.17	2.62	1.08
KPN Group Belgium / Base	11.43	5.68	4.76	2.92	1.08

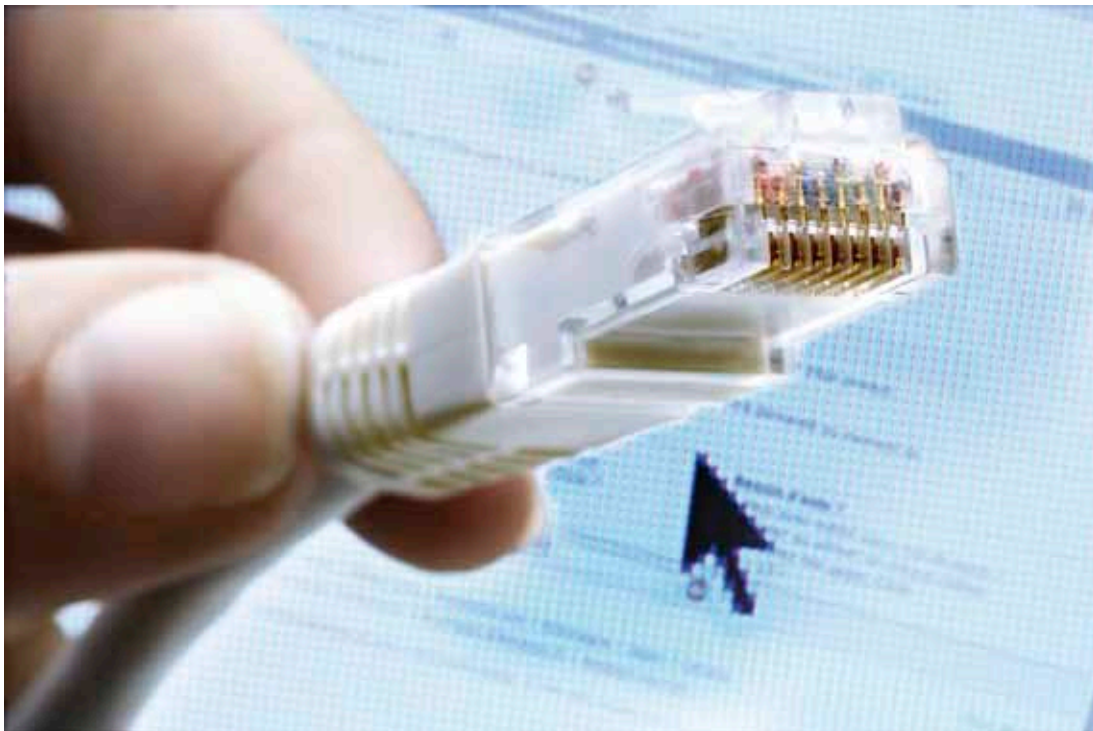
*rates are expressed in constant euro (without inflation) and for each deadline set they are adjusted with the inflation rate, as officially published by the Federal Public Service Economy, between December 2008 and the last month but one preceding the date set for a tariff adjustment.

This decision is the final result of a meticulous process, which makes BIPT one of the first European regulators (apart from BIPT only the French, Dutch and British regulators have taken such a decision) to finish its mobile termination market analysis; a market analysis that takes maximum account of the European Commission's new recommendation³⁴. This will help to make the Belgian telecommunications market more dynamic by pursuing the triple goal set in the prevailing regulatory framework, which is to protect the interests of civilians (owing to the decrease of retail prices hoped for), to promote competition (by stimulating competition between fixed and mobile operators regarding the offer of converging products) and to contribute to the development of the internal market (by applying regulatory measures that take maximum account of the European recommendations).

Broadcasting

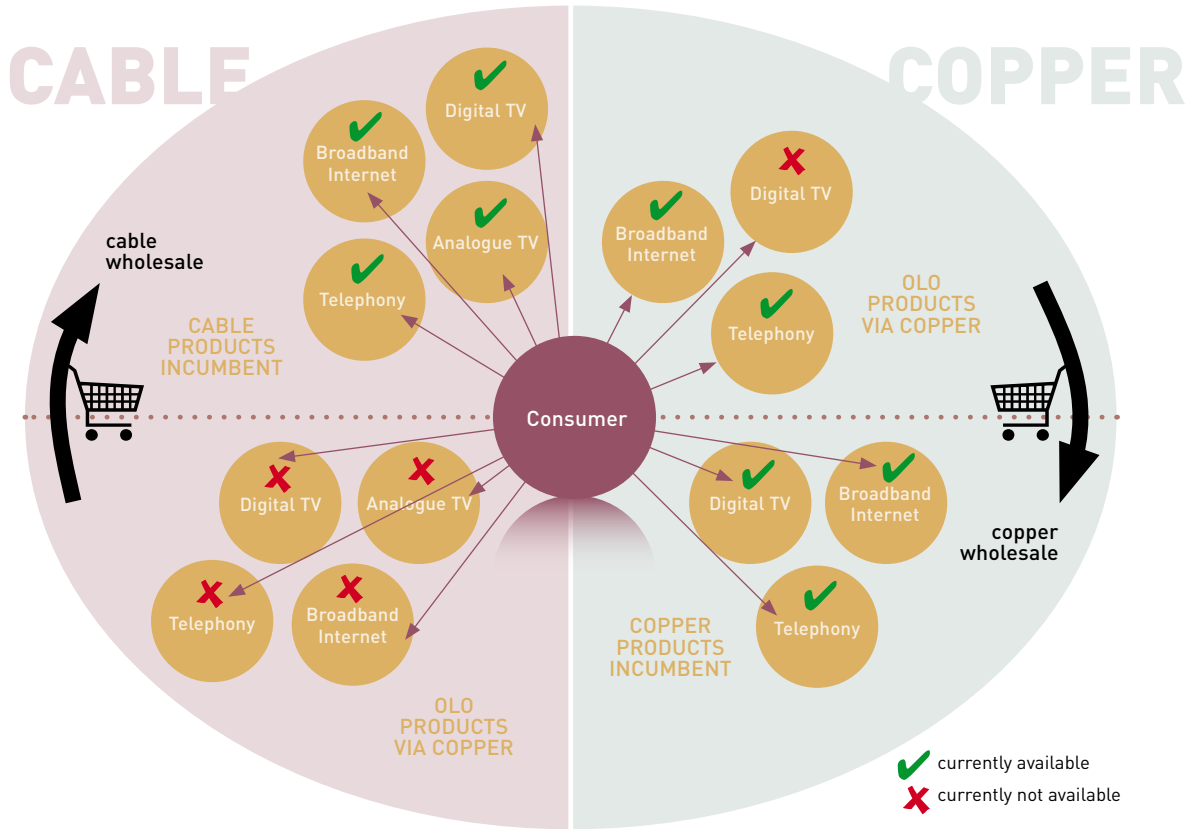
On 20 December 2010, BIPT, the CSA, the Medienrat and the VRM together presented four draft decisions regarding the analysis of the broadcast transmission market. By doing so the regulators want to open up the television broadcasting market and also create more competition on the broadband access market.

Until now, there is insufficient competition in broadband and broadcasting in Belgium. In the market analysis the competitive situation in each of the five cable areas (Telenet, Brutélé, Tecteo, Numericable and A.I.E.S.H.³⁵) was examined. In each of those coverage areas the conclusion is identical: mostly only two players are active (the cable operator and Belgacom TV) and the cable operators have SMP on the television market because of their large market share. Small operators, such as Télésat/TV Vlaanderen and recently also Mobistar (all of them providing satellite TV), have a market share that is negligible.

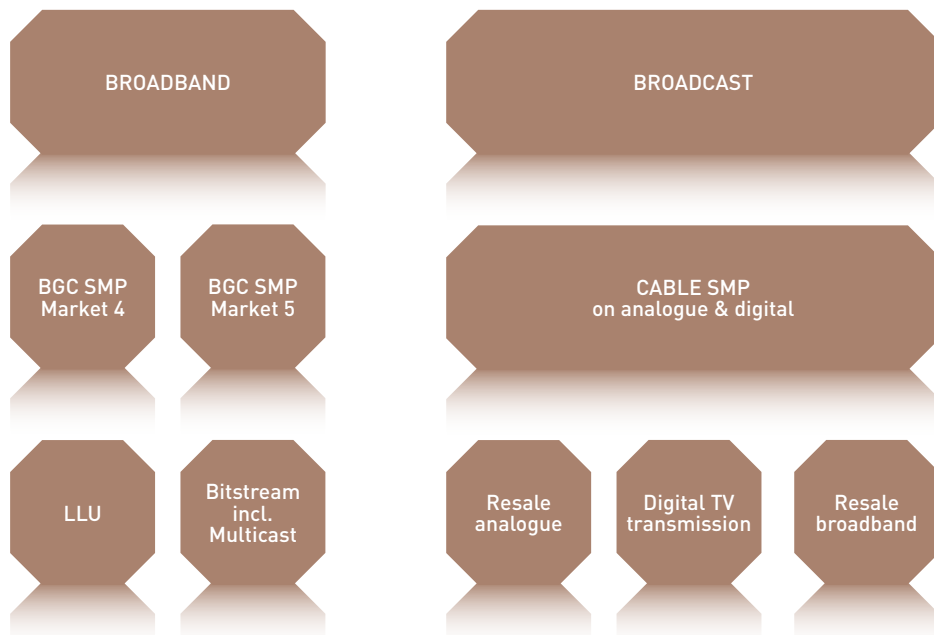


Credit © European Union, 2011

The alternative operators do not have their own networks that would enable them to offer bundles including broadband and digital television to consumers throughout Belgium. By using other operators' networks they can buy broadband and telephony through Belgacom, but no digital television (see figure below). This entails a competitive disadvantage for them, since consumers are increasingly bundling the services they want into a single subscription that comprises broadband and broadcasting.



BIPT and the Community regulators are convinced that more competition is needed on the Belgian broadband access and broadcasting markets. That is why the regulators have elaborated a common strategic vision, in which both Belgacom and the cable operators are regulated for both broadband and broadcasting. Below you will find an outline:



By providing broadband and television to alternative operators at the wholesale level through competing infrastructures (cable + Belgacom network) clear infrastructure competition is created, which should lead to lower prices and a better service to the benefit of competition. As a matter of fact it is then possible for alternative operators to buy wholesale products from the cable operator or from Belgacom.

The cooperation between BIPT and the Community regulators will result in four draft decisions, taken by each regulator for their respective areas of competence, where each media regulator will impose measures on the cable operators that are active in their area of competence:

BIPT proposes to impose measures on	The CSA proposes to impose measures on	The Medienrat proposes to impose measures on	The VRM proposes to impose measures on
Brutélé	Brutélé	Tecteo	Tecteo
Numericable	Tecteo		Numéricable
Telenet	Telenet		Telenet
	A.I.E.S.H. (limited remedies)		

It is interesting to point out that the obligations stemming from the draft decisions also enable cable operators to be active in other cable operators' coverage area. This was not possible before and it may give the market dynamics an extra boost. As soon as the obligations resulting from the draft decisions are operational, it will be possible for Telenet for instance to offer its products in Wallonia or for Tecteo to be active in Flanders.

A full operational offer for alternative operators that enables them to offer broadcasting products through cable or through Belgacom should in principle be available in the autumn of 2012.

Remedies imposed on the operators with significant market power

Belgacom is under the obligation to propose reference offers for interconnection (BRIO), local loop unbundling (BRUO) and bitstream access (BROBA). These reference offers are designed to establish the tariffs and conditions under which Belgacom opens up its network to alternative operators.

BRIO

As regards fixed telephony, BRIO lists the conditions under which Belgacom makes its interconnection network accessible to other operators (the interconnection network being the part of the network beyond the "local loop"). BRIO is much more than a mere table of tariffs for the conveyance of calls on sections of networks. This document also includes quality criteria, technical specifications regarding the services offered or the existing infrastructure, ordering procedures, delivery times, etc. The BRIO offer can be consulted on Belgacom's website. Any change made by Belgacom to the BRIO offer has to be communicated to BIPT, which can ask for changes to be made, before its publication.

On 1 April 2010 the VAT circular of the FPS Finance took effect. As from that moment a division has to be made between telecom activities on the one hand and pure content on the other. As BIPT's regulatory task is restricted to telecom activities, a number of operators wanted to have more margin on content. This would put more pressure on the service providers however.

In order to guarantee end-to-end connectivity the BIPT Council adopted provisional measures on 14 April 2010 because one of the mobile operators had threatened to block geographic number series if he was not allowed to apply higher wholesale tariffs. Finally these measures were prolonged in a decision of the BIPT Council of 14 June 2010.

Decisions in 2010	Publication date	Challenged in court
Decision of the BIPT Council of 14 April 2010 aiming at imposing provisional measures to guarantee accessibility of the VAS numbers from the BASE network	14/04/2010	No
Decision of the BIPT Council of 14 June 2010 regarding the necessity to extend the provisional measures to guarantee accessibility of the VAS numbers from the BASE network	24/06/2010	No

As commercial negotiations among operators did not bring about the desired effect, BIPT distributed two questionnaires to gain a better insight into the current market situation.

Consultations in 2010	Publication date	Number of respondents
Public consultation of 09 June 2010 regarding calls to VAS from mobile networks	24/06/2010	13

Taking into account the difficult market situation, a plan was conceived to organise a conciliation procedure among the principal operators involved in these disputes. Following deliberation with the competition authorities, this possibility is offered because of the problems ensuing from the multilateral nature of the procedure considered.

In October 2010 BIPT received a request for a bilateral conciliation between two operators. That procedure was not yet completed on 31 December 2010.

Now and then BIPT received requests from Belgacom to suspend interconnection agreements due to failure of payment by an operator of the amounts payable for the provision of interconnection services. In such cases BIPT verifies whether the obligations imposed on Belgacom as an operator with a strong market power on certain markets have been fulfilled in case of a possible suspension.

Moreover BIPT continued the procedure for the allocation of a public tender for the development of a new cost model for a new generation network ("NGN").

BRUO, BROBA AND WBA (WHOLESALE BROADBAND ACCESS)

The BRUO, BROBA and WBA offers are aimed at providing a wholesale broadband offer. The BRUO offer grants alternative operators fulltime access to all or part of the transmission capacity of the final wire, which connects the subscriber to the network. Through BROBA the alternative operator leases capacity from Belgacom on the connection equipment (DSLAM: Digital Subscriber Line Access Multiplexer) as well as transmission capacity in Belgacom's ATM (Asynchronous Transfer Mode) network or Ethernet network to access it and interconnection with that network. In the new WBA offer the alternative operator also leases capacity but it is provided through Belgacom's VDSL2 connection equipment and Ethernet network.

All of these offers are particularly important with regard to Internet access as they enable operators to present an alternative offer without having any customer access infrastructure (BRUO) and without having the same high-density infrastructure as Belgacom. This way those offers contribute to the development of competition and a diversified offer.

€ 7.78:
monthly rental fee for
raw copper, excluding
Belgacom telephony

BIPT FINALISED THE REGULATION OF THE VDSL2 WHOLESALE OFFER

In 2010, following an extensive analysis and consultation process, BIPT put the final touches to the regulation of Belgacom's wholesale offer based on which alternative operators are capable of offering VDSL2 products on the Belgian market through Belgacom's network. These measures are aimed at enhancing competition on the broadband market and lowering the end-user broadband tariffs. The completion of the regulation of the VDSL2 offer gives new hope for more competition on the Belgian broadband market. The price cut and the diversified offers that will no doubt ensue from that cut, will fully benefit the end-users.

Establishment of the new wholesale tariffs

On 3 August 2010 BIPT laid down the tariffs for the new VDSL2 wholesale offer enabling the alternative operators to offer VDSL2 services to the end-users by using Belgacom's VDSL2 equipment and copper wire through bitstream access. Afterwards these tariffs were slightly reviewed by the Decision of 10 November 2010, which rectified a number of material errors.

For this access a tariff of 13.94 EUR per month was decided upon (without Belgacom telephony) in which a margin was allowed that is added to the cost-oriented tariff to encourage Belgacom to invest in next generation networks.

BIPT also reviewed the monthly rental price for copper wire (called the unbundling offer). The tariff for the monthly rental fee for raw copper wire without Belgacom telephony drops from 9.29 EUR to 7.78 EUR (-16%), which represents a price cut for all regulated wholesale lines as this tariff also applies to the regulated ADSL and ADSL2+ products.

This specifically results in the following tariffs:

Unbundling	Previous tariff	New tariff
Raw copper (without Belgacom telephony)	€ 9.29	€ 7.78
Shared pair (with Belgacom telephony)	€ 0.85	€ 0.87
Sub loop raw copper (without Belgacom telephony)	X	€ 5.75
Sub loop shared pair (with Belgacom telephony)	X	€ 0.85

Bitstream	Previous tariff	New tariff
ADSL/ADSL2+ (without Belgacom telephony)	€ 14.32	€ 12.72
VDSL (without Belgacom telephony)	X	€ 13.94

Underlying this regulated offer is the Decision of 10 January 2008 regarding the analysis of the broadband markets. That market analysis obliged Belgacom to open up its VDSL2 network to competition through bitstream access, allowing an alternative operator to access the end-user by using Belgacom's VDSL2 equipment and copper wire. On 4 August 2008 Belgacom submitted an initial draft wholesale offer to BIPT, followed by several public consultations and sector meetings organised by BIPT before it gave its opinion on the different aspects of that draft by means of a number of implementation decisions:

1. Qualitative aspects (Decision of 30 September 2009):
 - contractual terms;
 - operational processes;
 - delivery terms and compensations.
2. Quantitative aspects:
 - monthly rental fee for copper wire (Decision of 3 August 2010);
 - monthly rental fee for VDSL2 bitstream access (Decision of 3 August 2010);
 - installation fees and other one-time tariffs (Decision of 2 December 2009);
 - costs for data transmission through the network (Decision of 6 August 2010).

Belgacom's proposal was adapted and completed to come to an acceptable offer allowing the alternative operator sufficient margin to diversify his products in terms of functions and specifications.

Optimising the operational processes

The new BIPT Council has listed "*operational excellence*" as a strategic goal for the coming years. 2010 was key in this as BIPT brought forward an initial series of measures and directives to give a clear interpretation to this goal.

Following repeated complaints from the sector about the poor quality of the service provided by Belgacom to the alternative operators, BIPT asked a team of external analysts in 2009 to carry out a thorough audit of all operational processes that are used for the provision of services to the wholesale and retail departments. Based on the auditor's advice a number of alterations were made to the operational processes introduced to optimise Belgacom's wholesale service.

In October 2010 Belgacom implemented an *Open Calendar* system enabling alternative operators to make an installation appointment for their customers with a Belgacom technician in *real time*. In addition it was also proposed to implement *Belgacom's certified technicians* system, which allows alternative operators to send a technician themselves for an installation at the client's provided that this technician is certified to access Belgacom's network infrastructure. These two major adaptations of the operational processes had been requested by the alternative operators for many years already and were finally implemented in 2010.

In the spring of 2010 Belgacom suggested an amendment to the reference offers in order to introduce these new processes. BIPT took advantage of this amendment to thoroughly review the existing contractual and operational terms of Belgacom's wholesale service offered to the alternative operators. This, in combination with the audit report, led to the publication of a substantial draft decision introducing a number of concrete amendments to address the principal needs of the sector mid-November 2010. That draft decision will take its final form in 2011 and trilateral working groups shall follow from up close whether Belgacom strives after operational excellence in its service.

By making a goal of operational excellence BIPT wants Belgacom to treat the alternative operators as full customers and to cooperate proactively with them in order to map out their needs and to propose the necessary adjustments to deal with those needs. Combined with an operational service that is both qualitative and efficient, this can but benefit the DSL eco system's competitiveness.

Consultations in 2010	Date	Number of respondents
The BRUO <i>Rental Fee</i>	9/02/2010	3
The <i>Rental Fee</i> for the WBA VDSL2 end-user line	9/02/2010	3
The Ethernet transport costs for WBA and BROBA and the BROBA migration costs	28/03/2010	4
The extension of the use of Ethernet transport	29/04/2010	3
WBA VDSL2 profiles based on VDSL2 17 MHz	21/06/2010	5
The reference offers BRUO/BROBA/WBA 2010/BROTSoLL 2010 (<i>Open Calendars, Belgacom Certified Technicians and BROBA Ethernet Dedicated VLANs</i>)	9/11/2010	8
Taking into account the costs of Small Network Adaptations	9/12/2010	4
Decisions in 2010	Adoption date	Challenged in court
Amendment in annex 6 of the BROBA	2/02/2010	No
Introduction of the VDSL2 17 MHz technology	4/05/2010	No
BROBA Ethernet	4/05/2010	No
The BRUO <i>Rental Fee</i>	3/08/2010	Yes
The <i>Rental Fee</i> for the WBA VDSL2 end-user line	3/08/2010	No
The Ethernet transport costs for WBA and BROBA and the BROBA migration costs	6/08/2010	No
Correction of the Decision of 3 August 2010 regarding the <i>Rental Fee</i> for WBA VDSL2 "end-user line"	10/11/2010	No
Correction of the Decision of 3 August 2010 regarding the BRUO <i>Rental Fee</i>	10/11/2010	No

SEPARATE ACCOUNTING, MODELLING AND COST ACCOUNTING SYSTEM

BIPT has the task of verifying whether Belgacom's wholesale tariffs indeed reflect the costs that the SMP operator has to bear, while preserving a return on investment. To accomplish this task complex technical-economic models are needed, as well as reliable financial and non-financial data.

Setting interconnection tariffs in particular can be done by taking either a top-down or a bottom-up approach. In the first case, a cost model is used that is put together on the basis of an operator's accounts and that spreads the relevant costs across the different elements in the network and among the services that use these network elements. The bottom-up model on the other hand is put together on the basis of the volumes of traffic to be routed by an operator, whereby these volumes determine the optimum dimensions of the different layers in the network.

In principle, the bottom-up model better reflects the situation of an efficient operator. Depending on the case BIPT uses a top-down and/or a bottom-up model.

In order to verify whether the costs have been correctly allocated and to avoid competition-distorting cross-subsidies between the different services, BIPT monitors whether Belgacom meets certain requirements regarding separate accounts and each year it drafts a decision regarding the conformity of Belgacom's cost accounting system. On 15 April 2010 the BIPT Council adopted the decisions relating to the terms for accounting separation for Belgacom and Mobistar. These decisions relate to the implementation of the accounting separation obligation in conformity with Article 60 of the Act of 13 June 2005.

The table below mentions the decisions taken in 2010 in this matter and indicates any legal appeals.

Decisions in 2010	Adoption date	Challenged in court
BIPT Council Decision of 15 April 2010 on the terms for the separated accounts of Belgacom	15/04/2010	No
BIPT Council Decision of 15 April 2010 on the terms for the separated accounts of Mobistar	15/04/2010	No

During 2009 BIPT, with the assistance of a consultant, reviewed the method for the calculation of the cost of capital of the operators who are regulated. A public consultation was held on 21 January 2010 for the operators involved to express their opinion on this new method. On 4 May 2010 the BIPT Council adopted a decision establishing the costs of capital that shall be used in Belgacom's reference offers on the one hand and the costs of capital to determine the mobile termination rates of Belgacom, Mobistar and KPN Group Belgium for the 2010-2013 period on the other hand.

The electronic communications universal service

The universal service principle means that in a market open to competition, all users should be guaranteed access to a minimum package of services of a given quality and at affordable prices, provided the market does not offer these services itself.

In 2010 the following activities were part of the universal service:

- + access to a basic fixed public network (allowing among other things functional Internet access) and to a fixed telephony service;
- + a social element involving the provision of a social telephone tariff to certain categories of people;
- + the provision of public payphones;
- + the provision of a universal directory enquiry service;
- + the provision of a universal directory.

The Act of 13 June 2005 stipulates that Belgacom provides all elements of the universal service, except for the social element, until 1 January of the year that will follow the designation by the King of the provider or the providers for each element of the universal service.

The Act stipulates that the providers should be designated for each element separately except as regards the social element – to which a separate method applies –, following an open procedure. However, this procedure was not applied in 2010.

In the case of the social element each operator is, however, under the obligation to offer social tariffs. The fact that the end-user requests to be granted social tariffs may not be put forward as a reason for exclusion from one of the main advantages of the opening up of the markets, namely the possibility to choose one's operator freely.

MONITORING OF UNIVERSAL SERVICE OBLIGATIONS

As regards the universal service, the first mission of BIPT is to monitor the proper fulfilment by the universal service providers of their obligations. Given the transitional period regarding the provision of the universal service elements other than the social element, the monitoring of the execution of these elements only concerned Belgacom, the only relevant provider, in 2010.

BIPT drew up the report on the universal service covering 2009. On the one hand this report presents the result of BIPT's monitoring activities as regards the correct fulfilment of the universal service obligations by the provider and on the other hand it meets the obligation for BIPT to report to the minister on possible adaptations of the universal service obligations, as laid down in Article 103, paragraph 2, of the Act of 13 June 2005 on electronic communications.

In a decision of 17 June 2009 the BIPT Council granted Belgacom permission to provide the fixed geographic element of the universal service through a technique using a SIM box. That decision was taken in accordance with Article 3, subsection 2, of the Annex to the Act of 13 June 2005, restricting the number of connections per year to 1,000. Upon verification of the implementation of that decision by BIPT, Belgacom informed BIPT that in 2009 not one connection was made using a SIM box and that in 2010 only one such a connection had been executed.

SOCIAL TELEPHONE TARIFFS

MANAGEMENT OF THE DATABASE OF BENEFICIARIES OF SOCIAL TELEPHONE TARIFFS

The STT cell, which is in charge of the management of the database of beneficiaries of the social telephone tariffs, deals with the requests for granting the social tariffs for which the information from the Crossroads Bank for Social Security does not suffice in order to decide whether the applicant does indeed meet the terms of Article 22 of the Annex to the Act of 13 June 2005 on electronic communications.

In 2010 BIPT will have intervened for approximately 24,000 requests for a social telephone tariff. These include:

- + approximately 7,400 requests resulting in the granting of the right to the social tariff;
- + approximately 4,800 requests denied.

The remaining 11,800 requests (49%) have been automatically closed because the applicant did not return the necessary documents within four months. Moreover the procedure for the systematic verification of the files of more than two years old, progressed. Since mid-May 2008 more than 77,000 old files have been checked, namely about 24% of the total number of files older than 2 years.

Further efforts were made to enable a more advanced automation of the management of the files processed by BIPT's STT department. An internal survey showed that among the manually treated files, 43% of the cases were missing data on the income of the applicant, 13% of the cases were lacking information on the degree of the handicap and 37% of the cases were missing data on the income and data on the degree of the handicap.

In November 2010 the BIPT Council therefore ruled on the measures that have to be taken to establish a computer link between BIPT's social tariff database and the database of the FPS Finance and the Directorate-General for Disabled Persons, in order to enable automatic processing of a larger number of request files.

MECHANISM FOR THE FINANCING OF THE UNIVERSAL SERVICE "SOCIAL TARIFF" ELEMENT

Following a claim by the European Commission and a preliminary question asked by the Constitutional Court, four questions of principle have been brought before the European Court of Justice regarding the financing mechanism for the granting of the social telephone tariffs by the operators:

- + May the national parliament act as a regulatory body?
- + May the universal service costs match the lower profit of the loss of profit suffered by the operator?
- + Does the Belgian regulatory framework meet the European rules as regards the taking into consideration of intangible benefits the operators enjoy?
- + Have the European obligations regarding the equity of the universal service burden for the provider been transposed correctly by the national regulatory framework?

On 6 October 2010 the Court of Justice passed two judgments with the following outcome:

- + It is the task of the Belgian Constitutional Court to verify whether the Belgian legislator, when intervening as a national regulatory body in the electronic communications services domain, may be considered as a national regulatory body complying with the terms laid down in the Framework Directive and in the 2002/22 Directive³⁶.
- + The Commission did not define that the national legislation in question, by establishing that the net cost of the social component of universal service corresponds to the difference between the revenue which the supplier who provides services at social tariffs would receive in normal commercial conditions and the revenue which it actually receives owing to the tariff reductions which the legislation concerned provides for in respect of beneficiaries of social tariffs, should fail to take account of the costs which undertakings designated to provide universal service would have avoided had they been able to choose not to fulfil the universal service obligations³⁷.

- + The Court finds that the Belgian legal framework does not correspond to the European framework
 - *“first, by failing to take into consideration, in the calculation of the net cost of provision of the social component of universal service, the market benefits, including intangible benefits, accruing to the undertakings responsible,*
 - *and second, by making a general finding on the basis of the calculation of the net costs of the erstwhile sole provider of universal service that all undertakings now responsible for the provision of universal service are in fact subject to an unfair burden on account of that provision and by having done so without carrying out a specific assessment both of the net cost which the provision of universal service represents for each operator concerned and of all the characteristics particular to each operator, including the quality of its equipment or its economic and financial situation³⁸.”*



FINANCING OF THE OPERATIONAL COSTS OF THE "SOCIAL TARIFFS" DATABASE

The STTS database financing is part of a specific system that was created through an amendment of Article 30 of the Act of 17 January 2003 (BIPT Act), implemented by the corrective act of 20 July 2006.

This stipulation determines that certain costs related to the operation of the STTS database may be passed on to the operators. The BIPT Council consequently adopted a decision on 22 April 2009 on the methodology to allocate the costs related to the database of the social element of the universal telecommunications service and to the calculation elements specific to the years 2006 and 2007.

By virtue of that decision the invoices for the financing of the database costs for 2006 and 2007 were sent to the operators involved³⁹.

Following an action for nullification brought by Belgacom and Belgacom Mobile on 6 July 2009 against the BIPT decision, the Brussels Court of Appeal annulled the BIPT decision in a judgment of 7 September 2010.

BILL AMENDING THE SOCIAL TELEPHONE TARIFF SYSTEM

On 9 March 2010 BIPT launched a consultation on a bill that Roel Deseyn and Jef Van den Bergh submitted to the Chamber of Representatives to amend the Act of 13 June 2005 as regards the social telephone tariff. This bill as well as its amendments regard the "operational" aspects and the contents of the universal service social element, which do not suggest changing the system for designation of the providers nor the mechanism for the financing of the activities. The bill also leaves untouched the Royal Decree of 20 July 2006 laying down the operating conditions of the social element of the universal service regarding electronic communications. BIPT's consultation also related to the aspects that went beyond the bill.

A summary of this public consultation was presented to the members of the Chamber's Infrastructure Committee on 29 October 2010 and can be consulted on BIPT's website at: <http://bipt.be/ShowDoc.aspx?objectID=3351&lang=nl>

The consultation's conclusions point to an approach that differs greatly between the consumer associations that are for an extension of the rules regarding the implementation of the social telephone tariffs and the operators who want a status quo or even a restriction of the scope of the universal service element.



2010

€ 12,500:
administrative fine
for Telenet

60

Verification of the operators' legal obligations and consumer protection

Liberalising the market and introducing competition are aimed at bringing prices down on the one hand and diversifying the product offer and improving quality on the other hand. However, it should be seen to that no category of users is put at a disadvantage. This concern is expressed in European laws and regulations. BIPT sees to the smooth operation of the protection mechanisms and intervenes if necessary to correct the situation. BIPT uses the possibility to impose penalties (fines) to encourage the operators to abide by the rules and to discourage recidivism.

INCONCLUSIVE RESPONSE TO A REQUEST FOR INFORMATION BY BIPT

On 14 September 2010 BIPT imposed a 12,500 EUR administrative fine on Telenet because of failure to respond or an inconclusive response to a request for information by BIPT that was submitted within the framework of an ongoing analysis of the broadband and broadcasting markets.

In its Decision of 14 September 2010 BIPT stated that information on products, processes, plans and so on, that are not publicly available, are of great importance for the decision-making process of BIPT and the fulfilment of its legal tasks and by not responding, or not responding sufficiently thoroughly to BIPT's questions on the matter, BIPT is hindered in the fulfilment of its legal tasks. According to BIPT this general consideration justified a fine to inspire more discipline.

In casu Telenet did not, or not sufficiently, respond to questions on the roll-out of a new technology (DOCSIS 3.0) within the framework of BIPT's market analysis regarding the broadband access markets and the broadcasting markets. This technology substantially increases the speed of Telenet's Internet-based network. BIPT stated in its decision on the matter that Telenet had given BIPT a wrongful impression as regards the evolution of its Internet products by not (sufficiently) informing BIPT during the durations of the breach (6 to 8 weeks).

VERIFICATION OF THE TRANSPARENCY OBLIGATIONS IN CASE OF MODIFICATIONS OF THE CONTRACTUAL TERMS AND PRICE INCREASES (ARTICLE 108, § 2)

According to Article 108, § 2, of the Act of 13 June 2005 each operator who increases his tariffs or changes the terms of the contract has to inform the subscriber individually, appropriately and in time. This has to be done at least one month before the modification. The subscriber is entitled to cancel the contract, if he so wishes, without any penalty at the latest on the last day of the month following the entry into force of the changes, or in the case of a tariff increase, at the latest on the last day of the month following receipt of the bill implementing the increase. Article 108, § 2, also states that at the same time of the announcement of the tariff increase or of the modified contractual terms, the operator has to inform the subscriber of his right to cancel the contract without penalty as a result of the modifications in question.

In 2010, in the context of this article, BIPT processed a number of older files from 2009 and opened new files, of which one led to an administrative fine.

€ 800,000:
administrative fine
for Belgacom

CASES AGAINST PROXIMUS AND MOBISTAR, REGARDING THE TARIFF INCREASES OF A NUMBER OF MOBILE TELEPHONY PRODUCTS ON RESPECTIVELY 1 MAY 2009 AND 1 JULY 2009

In 2010 it was first examined how the non-compliance with Article 108, § 2, of the Act of 13 June 2005, with regard to the tariff increases of Proximus and Mobistar on respectively 1 May 2009 and 1 July 2009 in each of their tariff plans could be addressed further.

As for Proximus BIPT's monitoring department carried out an inspection in November 2009. Based on this BIPT informed Proximus of its temporary findings regarding the violations of Article 108, § 2. Following which BIPT found that the operator again informed the subscribers involved and this time in due form about (1) the tariff increase applying to them and (2) the right to cancel the contract without penalty and reinstated a sufficiently long period of time to cancel the contract without penalty. In those circumstances it was decided not to start infringement proceedings.

Mobistar received for its part, considering the failure to respond appropriately after the announcement of the provisional findings on the violations of Article 108, § 2, an official notice of default on 19 March 2010 by BIPT in which BIPT urged Mobistar to put an end to the violations established. Mobistar reacted by suggesting appropriate measures, namely by informing the subscribers involved through an announcement on the invoice of (1) the tariff increase applying to them and (2) the right to cancel the contract without penalty and by defining a new deadline to cancel the contract without penalty. The measures announced by Mobistar to put an end to the violations of Article 108, § 2, of the Act of 13 June 2005 were verified by BIPT. Based on the report of BIPT's monitoring department the file was closed.

CASE AGAINST BELGACOM WITH REGARD TO THE TARIFF INCREASE OF A NUMBER OF INTERNET SUBSCRIPTIONS

On 5 February 2010 Belgacom announced a change in its Internet offer through a press release. The changed offer was accompanied by a tariff increase of two of Belgacom's four main Internet offers. The tariffs for the "Internet Light" and "Internet Go" offers – remodelled into "Internet Comfort" and "Internet Favorite" – respectively went up by 0.95 EUR and 1.15 EUR per month. With the new offer also came a new download speed and a new monthly allowed download volume. That same day Belgacom sent a mail to its subscribers to inform them of the changed offer. Later Belgacom also sent a letter to its subscribers informing them of this changed offer.

BIPT looked into the manner in which Belgacom communicated that price increase to its customers. The investigation carried out by BIPT showed that Belgacom had not fulfilled its transparency obligations with regard to its subscribers in spite of previous experiences following the BIPT investigation into the tariff increase by Proximus in May 2009. The mail of 5 February 2010 announcing the changes in the offer, did not state at the same time that the subscriber was entitled to cancel his contract without penalties as a result of this tariff increase, which it should have done by virtue of Article 108, § 2, of the Electronic Communications Act. Also in the following individual letters Belgacom only informed part of its subscribers about their right to cancel their contract free of charge.

These letters moreover do not sufficiently inform the subscribers about the deadline to cancel their contract free of charge. Belgacom mentioned in the notification that the right to cancel may only be exercised following receipt of the first invoice amended. According to the act the subscriber however does not have to wait until he receives the new invoice to assert his right to cancel free of charge. Because of this wrongful notification the term for cancellation was de facto shorter for the subscriber than legally defined.

After having gone through the infringement proceedings as laid down in Article 21 of the Act of 17 January 2003 (notification of the grievances and a draft fine by BIPT followed by the possibility for Belgacom to give written and oral comments) BIPT

imposed an 800,000 EUR administrative fine on Belgacom on 28 June 2010. BIPT considered it an aggravating circumstance that Belgacom did not take any corrective measures, not even after BIPT's intervention previous to the decision on the fine, while Belgacom did admit to BIPT during the investigation to having committed material errors and mistakes.

In its Decision of 28 June 2010 BIPT also reminded Belgacom that the imposition of a fine did not mean that Belgacom no longer had to take measures to yet abide by the stipulations of Article 108, § 2, of the Act of 13 June 2005 in this case.

Following a reminder of this passage from the Decision of 28 June 2010 in a letter by BIPT of 19 September 2010, Belgacom presented to BIPT the measures it had taken after BIPT's letter.

Following the assessment of the proposed measure BIPT closed the file.

REMAINING CASES

In 2010 BIPT also actively looked into the changes other operators, such as Telenet⁴⁰, introduced in their general terms and especially into the way in which those changes and the right to cancel free of charge were communicated to the subscribers.

Most of these files were being investigated in 2010. It has not yet been decided how to proceed exactly before coming to possible infringement proceedings.

Decisions in 2010	Adoption date	Challenged in court
Notice of default of MOBISTAR NV due to non-compliance with Article 108, § 2, of the Act of 13 June 2005 on electronic communications	19/03/2010	No
Decision imposing an administrative penalty upon Belgacom for non-compliance with Article 108, § 2, of the Act of 13 June 2005 on electronic communications	28/06/2010	Yes
Decision imposing an administrative fine on Telenet due to non-compliance with Article 14, § 2, 2°, of the Act of 17 January 2003 on the status of the regulator of the Belgian postal and telecommunications sectors, and with Article 137 of the Act of 13 June 2005 on electronic communications.	14/09/2010	No



€ 750:
fixed compensation in
case of *slamming*

ANTI-SLAMMING MONITORING (ARTICLE 135)

In accordance with Article 135 of the Act of 13 June 2005 a customer migration from one operator to another can only take place following explicit prior consent in writing or on another form of support by the end-user granted after the end-user has been clearly informed of the carrier preselect service, the Internet access service or the transfer of the number itself. It is called "slamming" when a customer is transferred from one operator to the other without the former's consent.

In the case of slamming Article 135 states that the operator who wrongfully carried out a migration not only has to refund the end-user for the wrongfully invoiced costs but also has to pay a fixed compensation of 750 EUR per individual case to the company temporarily losing the end-user as a customer due to these facts.

Complaints of end-users on the non-compliance with Article 135 may be submitted to the Office of the Ombudsman for Telecommunications. The Office of the Ombudsman, however, is not entitled to verify whether the fixed compensation of 750 EUR was paid. The Office of the Ombudsman consequently forwards to BIPT the files for which mediation regarding the invoice has been closed and for which it believes that it was not proven that consent was given for the migration. BIPT invites the operator practising slamming to deliver proof that the 750 EUR was paid to the operator victimised by the slamming and, if this is not the case, to yet make the payment. If this is refused or if the proof asked is not delivered, BIPT may start infringement proceedings.

INFRINGEMENT PROCEEDINGS REGARDING THE "VOICE LOGS"

In the past T2 Belgium NV systematically refused to make the payments laid down in Article 135, subsection four, of the Act of 13 June 2005, because it considered the recordings of sales calls (the so-called "voice logs") to be in conformity with Article 135 of the Act.

For that reason infringement proceedings were launched in 2009.

In its written comments on the grievances communicated in accordance with Article 21 of the Act of 17 January 2003 the operator in question stated among other things that:

- a) before an administrative fine can be imposed on him, he has to have the opportunity to put an end to the violation. This argument was based on Article 10.2 of Directive 2002/20/EC of 7 March 2002 on the authorisation of electronic communications networks and services ("Authorisation Directive"), as was applicable before its amendment by Article 3, 6), a) of Directive 2009/140/EC of 25 November 2009; and
- b) an end was put to the violation in practice through:
 1. payments of 750 EUR per individual case to some operators that had been done in the meantime and have been proven;
 2. a settlement of the operator in question's debts by virtue of Article 135, subsection four, of the Act of 13 June 2005 to one operator in specific, based on other grounds than for the direct payment of 750 EUR per individual case.

Following additional investigation in 2010 that was made possible by the reply of Mobistar Enterprise Services (as legal successor of T2 Belgium NV) to the request for information by BIPT, BIPT took the following decisions in this file:

1. in the past T2 Belgium NV committed a violation, in the 70 escalated cases, of Article 135, subsection four, of the Act of 13 June 2005 by not paying the fixed amount of 750 EUR per individual case, in particular in the cases for which it tried to prove the end-user's consent by means of a voice log;

2. the legal successor of T2 Belgium NV (namely Mobistar Enterprise Services NV (MES)) could not be fined immediately for this violation, taken into consideration the necessity to interpret the (new) Article 21 of the Act of 17 January 2003 in conformity with the directives (based on the versions before the amendments on 19 December 2009);
3. neither can MES be properly served a notice of default for this taken into consideration the proven payments that have been done in the meantime as a fixed compensation in conformity with Article 135, subsection four, of the Act of 13 June 2005, putting an end to the violation imputed;
4. the infringement proceedings were consequently closed.

Decisions in 2010	Adoption date	Challenged in court
Non-compliance with Article 135 of the Act of 13 June 2005 on electronic communications – infringement proceedings as stipulated in Article 21 of the Act of 17 January 2003 on the status of the regulator of the Belgian postal and telecommunications sectors – cancellation and follow-up	08/10/2010	No

ETHICS COMMISSION

The Ethics Commission for the provision of premium rate services on electronic communications networks is entrusted with the task of ensuring the observance of the conditions under which premium rate services are offered to the public through electronic communications networks. This covers for example voting by telephone or text message on various TV shows (e.g. Eurovision Song Contest or Miss Belgium), downloading logos and ringtones for mobile phones, calling a central premium rate number to find out about duty doctors or chemists in a specific area or to consult the latest weather forecast, making dates via dating services, etc.

For these services mostly 0900 numbers or short four-digit SMS codes are used.

The law decrees that the rules for a correct offer of these services and number series that may be used for that purpose have to be laid down in an Ethics Code, which is proposed to the King by the Ethics Commission.

The law also decrees that BIPT provides the secretariat for the Ethics Commission.

FUNCTIONAL SUPPORT AND EXECUTION OF THE SECRETARIAL TASK FOR THE ETHICS COMMISSION

In accordance with its legal tasks BIPT provided secretarial and generally operational support to the activities of the Ethics Commission in 2010 as well.

This included among other things the organisation and minuting of meetings of the Ethics Commission, the implementation of the solution found to complaints regarding premium rate numbers that BIPT or the Ethics Commission received themselves and the management of the Ethics Commission's website www.telethicom.be.

BIPT also followed the reform of the IARN (*International Audiotex Regulators Network*). The IARN will adopt the form of a non-profit making association under Finnish law and the necessary means will be provided to hire a part-time Executive Secretary who will ensure a better collection of information on market trends.

ETHICS CODE

To formulate a proposal for an Ethics Code the following steps were taken in 2010:

- + early 2010 the Ethics Commission took note of the opinion of the Legislation Department of the Council of State on the draft Royal Decree laying down the ethics code for telecommunications as stipulated in Article 134, § 2, first sentence, of the Act of 13 June 2005, identified the options for the ministers in charge to meet the Council of State's remarks, discussed these options and determined its preferences for one of them;
- + at the request of the Private Office of the Minister of Enterprise and Simplification the decisions adopted to meet the Council of State's remarks were formalised into a final draft Royal Decree laying down the Ethics Code for telecommunications;
- + that draft was submitted to the Private Office in question.

Preparation of the monitoring tasks of the Ethics Commission

The Ethics Commission concentrated further on the preparation of the activities it will perform as soon as the Ethics Code comes into force.

For example, early 2010 the Ethics Commission took note of the opinion of the Legislation Department of the Council of State on the proposal for a review of Article 134 of the Act of 13 June 2005 (to optimise the operation of the Ethics Commission) and the introduction of a new Article 134/1 (confer the power to take urgent and temporary measures to the chairman of the Ethics Commission), included in the draft bill pertaining to various provisions regarding telecommunications. It identified the options the minister(s) in charge may take to meet the remarks of the Council of State, it discussed those options and announced its preference among those options.

The options made public by the Ethics Commission were linked to the result of an analysis on the impact of the implementation of the Ethics Code for telecommunications on BIPT as secretariat for the Ethics Commission. The analysis in question led to the conclusion that certain tasks of the secretariat had to be redivided and that the coming into force of the Ethics Commission for telecommunications and the expected stream of complaints resulting from that, would require the provision of the necessary additional human resources. The impact analysis carried out by BIPT was transferred to the Minister of Enterprise and Simplification, together with the message that BIPT would only agree to the modification of Article 134 of the Act of 13 June 2005 and the introduction of a new Article 134/1 of the Act of 13 June 2005 and to the addition of the extra tasks this will bring about if 2 additional FTEs (jurists) and two additional non university FTEs (level B) are allowed for in BIPT's staff.

In addition the exploratory talks with the Directorate-General Enforcement and Mediation of the FPS Economy with a view to concluding a cooperation protocol, were continued.

The Ethics Commission also analysed the obligations it has to fulfil in light of the legislation regarding the use of languages. In this context it was also decided to ask the opinion of the Vaste commissie voor Taaltoezicht (Standing Committee for Linguistic supervision) on a number of aspects of the language legislation through the Minister of Enterprise and Simplification.

By the end of the year a discussion was launched on the priorities of the Ethics Commission and their translation into a communication on the processing of complaints by the secretariat of the Ethics Commission, by virtue of Article 7, § 4, of the Royal Decree of 1 April 2007 regarding the procedure for and the practical rules relating to the functioning of the Ethics Commission for the provision of charged services through electronic communications networks.

TARIFF SIMULATOR

Article 111, § 2, subsection two, of the Act of 13 June 2005 stipulates that BIPT has to provide for a computer programme on its website which the public at large can use to compare the tariff plans of the different operators offering electronic communications services on the Belgian market.

The first three modules for fixed telephony, mobile telephony and broadband/Internet access were launched in 2009. The fourth module with the combined offers and access to digital television required more preparation than initially expected. This module is planned for the first half-year of 2011.

During 2010 79,662 simulations have been performed by the public. This result is split up as follows:

2010	Total number of visitors	Fixed telephony	Mobile telephony	Broadband/Internet access
January	9,754	2,434	3,771	3,549
February	16,691	3,344	4,556	8,791
March	6,953	1,675	2,686	2,592
April	5,616	1,346	2,200	2,070
May	6,213	1,349	2,801	2,063
June	5,137	1,105	2,120	1,912
July	4,863	1,113	2,025	1,725
August	5,295	1,222	2,305	1,768
September	4,799	1,042	2,197	1,560
October	5,021	1,154	2,340	1,527
November	4,631	1,010	2,251	1,370
December	4,689	967	2,449	1,273
TOTAL	79,662	17,761	31,701	30,200

The operators update all of their tariff plans and promotions.



SCARCE RESOURCES

Management of telephone numbering

Numbers are essential in offering telecommunications services over telecommunications infrastructures. They are for both end-users and providers the key that provides access to services. BIPT sees to it that the supply of numbers is constantly sufficient enough and adequate for normal market development. To telecommunications operators equal access to adequate number series is of paramount importance, in terms of quality as well as quantity, for the balanced development of a competitive market. For end-users the numbers dialling code contains information about the kind of services and the corresponding rates. For this purpose BIPT establishes numbering plans, which clearly state which destination corresponds with which number.

REGISTRATION OF NUMBER CAPACITY

BIPT also provides the actual number management, which includes tasks such as the allocation, reservation, withdrawal, transfer and monitoring of the use (maintenance policy) of the numbering capacity. In the case of inappropriate use, BIPT intervenes. All available information on the national numbering plan – such as the lists of reserved and allocated numbers – can be found on BIPT's website (www.bipt.be).

ASPECTS RELATING TO THE TRADITIONAL NUMBERING

BIPT chaired a working group composed of the operators to determine the routing rules in NGN networks. Also a number of options were studied to implement number portability in an NGN environment and to organise the transition toward that implementation. A number of possibilities were presented.

Machine to machine numbering (in short "M2M") was a point of particular interest to BIPT in 2010. This technology allows devices to communicate among each other without human intervention. Typical examples are telematics, alarm systems and remote controlled processes. On 30 September 2010 a consultation of the market was launched aiming at establishing the numbering policy for M2M communication. Based on the reactions and further analyses, a policy note regarding M2M numbering was drawn up by the Telecommunications Minister. In the consultation document submitted BIPT proposed four options that could be combined. In option A the number series that already exist in the national numbering plan for mobile communications applications are also used for M2M communication and no distinction is made between voice and other applications. In the case of option B, namely a new number series, a certain series followed by 11 digits might be used exclusively for M2M applications. In option C no appeal is made to numbers from the national numbering plan but rather to numbers straight from an international numbering plan. In the fourth and last option (option D) network internal numbers are considered.

The problem of certain number blocks that are not allocated to another operator but in which part of the numbers are still active, was finally settled through the Decision of the BIPT Council of 7 September 2010 on the reallocation of a number of number blocks.

A draft Royal Decree was drawn up amending various provisions of the Royal Decree of 27 April 2007 on managing the national numbering space and the grant and withdrawal of number user rights regarding the maximum tariffs for calls to premium rate numbers for mobile users.

Following extensive consultation with the sector the operational request procedures have been established to enable open access to short numbers for SMS/MMS, tailored to the market needs.

The problem of the so-called "*ping calls*" to Belgian Infokiosk numbers was solved in consultation with the GSM operators. In this form of fraud a client receives a call on his mobile phone from an Infokiosk number, but is not allowed the time to answer. As he was not able to answer the call, the caller does not pay any fees. The Infokiosk number is then stored in the mobile phone of the person called as a missed call and it is very likely that the person in question will call back, not knowing that it is an Infokiosk number. When that person calls back, he or she usually gets an empty service.

Finally efforts were made to further improve the accuracy of the data in the numbering database and to enhance the coherence with the central reference database for number portability. Also the efficiency of the use of mobile numbers for mobile applications was evaluated through international benchmarks among other things.

INTERNET-RELATED ASPECTS "NAMING" AND "ADDRESSING"

A bill was drawn up at the request of the Chamber of Representatives to ease the transition towards another Internet provider for the client by introducing an e-mail and URL interception mechanism. That text was adopted in the Chamber of Representatives on 6 April 2010.

The Ethics Code as laid down in the Act of 6 April 2010 was negotiated with ISPA (Internet Service Providers Association) and on 22 December 2010 the written consultation was launched following an internal BIPT analysis.

Moreover BIPT developed a number of measures that were included in the bill amending the Act of 13 June 2005 to boost the continuity and stability of the top-level domain ".be".

Furthermore BIPT carried out a marginal review in the public interest as a member of the Strategic Committee of the national top-level domain registration bureau. In this context the development of a policy to prevent and remedy abuse of domain names was emphasised.

Also the possible role of BIPT with regard to the introduction of IPv6 was preliminarily studied.

NUMBER PORTABILITY

Number portability is a key priority in the telecommunications policy. There are two basic reasons for this. Every change of call number entails additional administrative work and costs for end-users and has a highly negative direct impact on potential customer contacts. Furthermore, there is increasing concern among new operators about being treated unfairly if their potential customers had to change numbers.

As in the previous years BIPT continued to supervise the operation of the non-profit-making association "Number Portability". In this context a research was launched into the possible unjust costs invoiced by suppliers of the non-profit making organisation to new operators who have to connect to the new system.

A number of cases were treated to gain access to the ported numbers database, in accordance with the provisions of the BIPT Council Decision of 2 February 2005 laying down the tariffs of the number location information service for third parties of numbers ported exclusively for their own purposes and for routing their own communications services and validating a number of specific terms regarding access to that service.

A consultation⁴¹ was held with possible interpretations of the "one day obligation" to port numbers and define a fining system in case operators do not sufficiently meet the number portability obligation laid down in the new Universal Service Directive vis-à-vis the end-users.

By the end of 2010 a total of 5.6 million numbers from the Belgian numbering plan had been ported at least once. That means that about 35% of all mobile phone users and 25% of the fixed telephony users have already used this facility. The number of complaints regarding this matter was practically nil.

The carrier preselect service

The decline in the number of net activations noted since May 2005 when the maximum number of activated numbers was reached, i.e. 1,135,000, continued in 2010. However, this also has to be seen in the light of the decrease of the number of Belgacom lines that support carrier preselect, a phenomenon that accelerated from 2005 onwards. In practice this means that in six years time the carrier preselect penetration degree, being the number of activated numbers in comparison with the number of available Belgacom channels, only decreased by 5%!

Management of the electromagnetic spectrum, licences and frequencies

The management and monitoring of the spectrum fall within the brief of BIPT, which assigns the frequencies and delivers the licences. The users of the electromagnetic spectrum are numerous and varied.

FREQUENCY MANAGEMENT

BIPT has been assigned the task of managing the electromagnetic spectrum in Belgium. This encompasses both the daily management of frequency assignments and coordinations and the long-term policy on frequency plans and adjustments. Below the main accomplishments of the Frequency Management Cell within the Technology Department for the year 2010 are described.

Spectrum study

In 2010 BIPT had an external consultant update⁴² the already existing study⁴³ on the future spectrum policy in the 790-3400 MHz bands. The final report on the extensive study that was drafted by the internationally renowned consultants Analysys Mason/Hogan & Hartson entitled "Strategic spectrum management as regards radio access systems in the 790 MHz – 3400 MHz frequency bands", was submitted in due time. Together with the results of the consultation on this topic, this report, the final version of which was published on BIPT's website, constitutes one of the main cornerstones for the definition of the spectrum management in the 790-3400 MHz band for the years to come.

Granting of user rights in the 3410-3500 MHz/3500-3600 MHz band

On 24 November 2010 BIPT published a consultation in the Belgian Official Gazette in which the term to introduce applications to obtain user rights for the 3410-3500 MHz/3500-3600 MHz frequency bands was declared open. The granting of these user rights could boost competition in the field of access to broadband electronic communications services. These user rights apply for a ten-year period and can afterwards be renewed for five years each time.

Communication of the BIPT Council of 7 December 2010 on the measuring campaign in the 2700-2900 MHz band

Theoretic calculations show that the roll-out of a WiMAX/LTE⁴⁴ network in the 2.5-2.69 GHz band might influence the operation of the radars in the 2.7-2.9 GHz band that are operated by the Belgian aviation authorities (Belgocontrol and Defence). Consequently practical measurements are required to verify which possible measures should be taken to guarantee compatibility. To this effect BIPT appeals to an external consultant. In the context of this study specifications were published on the BIPT website and in the European Official Journal in December 2010.

The auction for the fourth 3G licence and the 4G licences

The **Frequency Management Cell** gave the necessary support and advice for the preparation of the auction of the user rights for the fourth 3G licence and the user rights for the 4G systems frequencies. To this effect a consultant was called upon. Following publication of the specifications the mission was entrusted to Analysys Mason, DotEcon, Hogan-Lovells and Philippe&Partners.

Radio interfaces

Radio interfaces are designed for specific types of radio equipment. These interfaces lay down the terms for the use of this equipment on the Belgian market. These radio interfaces are necessary in order to avoid harmful interference to radio communication and are part of the national frequency plan. They include more specifically the technical requirements the equipment has to meet and the frequency bands in which the equipment may be used.

The new versions (B2.1 (V2.1), B2.2 (V2.1) and B2.3 (V2.1)) of radio interface B2 for wireless access systems and multigigabit systems that lay down the terms for the use of this equipment on the Belgian market, were approved by the Council on 19 March 2010 and published on BIPT's website.

In order to follow up the fast market evolution for radio equipment the new interfaces (B8.7, B8.8, B8.9, B8.10 and B8.11) for devices used for level probing of tanks that are installed in metal or reinforced concrete containers or similar structures, were approved by the Council and published on BIPT's website. In addition an interface was published for devices used to determine the position, speed and/or other characteristics of an object or to gather information on these parameters (B8.12).

The national frequency plan was kept in conformity with the European harmonisation. This plan is available for consultation on the BIPT website but also in the comprehensive nomenclature of the European frequencies collated by the European Radiocommunications Office (<http://www.cept.org/eco>).

45. 1ST CATEGORY: MOBILE NETWORKS, EXCEPT FOR THOSE THAT FALL UNDER CATEGORY 3;

2ND CATEGORY: FIXED NETWORKS;

3RD CATEGORY: MOBILE NETWORKS ROLLED OUT BY:

- A) THE STATE, THE COMMUNITIES, THE REGIONS, THE PROVINCES, THE MUNICIPALITIES, THE INTERMUNICIPAL COMPANIES THAT ONLY COMPRISE PERSONS UNDER PUBLIC LAW, AS WELL AS INSTITUTIONS THAT ARE SUBJECT TO ONE OF THESE AUTHORITIES;
- B) THE SOCIETIES FOR THE OPERATION OF RAILWAY TRANSPORT AND THE SOCIETY RESPONSIBLE FOR THE RAILWAY INFRASTRUCTURE;
- C) THE UNIVERSITY HOSPITALS;
- D) BODIES FOR MEDICAL OR SOCIAL HELP, EITHER WITH PURELY HUMANITARIAN GOALS OR OF THE NON-PROFIT MAKING TYPE;

4TH CATEGORY: RADIO STATIONS AS MENTIONED IN ARTICLE 33, § 2, OF THE ACT (WITH REGARD TO THE POINT-TO-MULTIPOINT CONNECTIONS, THIS LICENSING REQUIREMENT ONLY APPLIES TO BASE STATIONS OPERATED BY THE OPERATOR. THE LICENSING REQUIREMENT DOES NOT APPLY TO THE BASE STATIONS PUT UP AT THE CLIENT'S AND USED BY THE LATTER AS AN END-USER. [...]);

5TH CATEGORY: RADIO STATIONS FOR INDIVIDUAL TRAINING, TECHNICAL EXCHANGE OF MESSAGES AND STUDIES, USED BY RADIO AMATEURS;

6TH CATEGORY: OTHER NETWORKS OR RADIO STATIONS THAT DO NOT FALL UNDER ONE OF THE PREVIOUS CATEGORIES SUCH AS AMONG OTHER THINGS EXHIBITION MODELS, TESTS AND TRIALS OF RADIO WAVES, INDIVIDUAL HOLDER'S LICENCE.

FREQUENCY ALLOCATIONS AND INTERNATIONAL COORDINATION

Frequency assignments for landmobile services are governed by the HCM Agreement (*Harmonised Calculation Method*, previously the Vienna/Berlin Agreement) and constitute one of the main activities of the Frequency Management Cell.

Number of files processed regarding mobile services under the HCM Agreement Number of coordinations	2010
Coordinations from Belgium	165
Incoming coordinations from France	1,346
Incoming coordinations from the Netherlands	89
Incoming coordinations from Germany	71
Incoming coordinations from Luxemburg	14

Number of files per category ⁴⁵			
	Annulled	Modified	New
1st category	454	1,320	1,733
2nd category	5	3	5
3rd category	100	191	100
6th category	0	11	37

Although BIPT is not responsible for the planning of frequencies for broadcasting, its **Frequency Management Cell** is responsible for the daily requests for coordination and the application of international agreements (Geneva 1975, Geneva 1984, Stockholm 1961, Wiesbaden 1995, Chester 1997, Maastricht 2002) as well as the application of the LEGBAC Agreement (*Limited Exploratory Group on Broadcasting to Aeronautic Compatibility*).

This cell is also responsible for coordinating frequencies for satellite links (earth stations, networks, etc.) and radio relay links as well as for the correspondence with the ITU Radiocommunication Bureau.

Types of files	Number
2006 Chester Agreement (DVB-T: Digital Video Broadcasting - Terrestrial)	375
1984 Geneva Agreement (FM broadcasting)	1,769
1975 Geneva Agreement	0
2002 Maastricht Agreement – 2007 Costanza Agreement (T-DAB: Terrestrial Digital Audio Broadcasting)	7
HCM Agreement (general) User rights	97
Earth stations (Art. 9), satellites (Art. 9), radio relay links	1,509
Miscellaneous (coordinations, interference, requests for information, wind turbine projects, aviation, maritime navigation)	922
Comixtelec (Commission mixte des télécommunications or joint Commission on Telecommunications)	282
ITU – Radiocommunication Bureau and Conferences	123
CEPT – ERO (European Radiocommunications Office) – ECC (Electronic Communications Committee)	3
Satellite organisations (Eutelsat, Intelsat, ESA (European Space Agency) ...)	4
TOTAL	5,091

LICENCES FOR PRIVATE RADIO COMMUNICATIONS NETWORKS AND INDIVIDUAL STATIONS

On 1 January 2010 the Royal Decree of 18 December 2009 on private radio communications and user rights for fixed networks and trunked networks came into effect.

This Royal Decree amended the different licence categories rendering a comparison with previous years impossible. Furthermore the use of the Citizen Band (CB) equipment was exempted from licence.

The following table lists the total number of licences granted on 31 December 2010 in the different categories.

LICENSING OF OPERATORS

Trunked networks (trunk radio positioning)

The company ABS VHF Solution was granted a licence to operate a radio positioning network on the Belgian territory.

The Liège airport operator was granted a licence to operate a TETRA network (*terrestrial trunked radio*) on the airport territory.

The company Security Monitoring Centre was granted a licence for the operation of a public alarm transmission network on the Belgian territory.

Test licences

With a view to stimulating the introduction of new technologies for mobile electronic communications a number of temporary licences for testing and demonstrations were granted.

The company Solaris Mobile Ltd was among the companies to be granted a licence for demonstration purposes on the Brussels Capital Region territory. It regards a demonstration for the European Commission and the European Parliament of a Pan-European system for the provision of mobile satellite services (MSS: Mobile Satellite Service). Also Belgacom, Ericsson, Mobistar and Telenet were granted a test licence, in order to test the LTE technology, called technology of the fourth mobile generation or 4G.

Number of licences for private radio communications networks and individual stations

		Permanent	Temporary
1st category	Mobile networks	4,166	1,765
2nd category	Fixed networks	169	0
3rd category	Mobile networks operated by authorities among others	570	0
4th category	Jammers installed in penitentiaries	0	NA
5th category	Radio amateurs	5,644	NA
6th category	Other networks and holder licences	20	12
Satellites	Satellite networks	55	78

1,416:
number of candidates
for the VHF exam

46. SHORT RANGE CERTIFICATE.

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LICENSING OF THE RADIOAMATEURS AND RADIOMARITIME OPERATORS

Whether the radio communications system functions well also depends on the competence of its operators. For this reason, BIPT organises examinations for radio amateur certificates and for maritime radio operator certificates. The examinations for operators of aeronautical stations fall under the Federal Public Service for Mobility and Transports.

These exams are organised at regular intervals in the offices of BIPT. A computerised system asks multiple-choice questions for radioamateurs, operators of VHF equipment and GMDDS operators (general maritime distress and safety system). In addition 8 training centres that are recognised by BIPT organise the required courses for participation in the GMDDS exam.

Radio amateurs

In 2010 two BIPT Council Decisions on radioamateurs were published. The Decision of the Council of 7 September 2010 on the granting of an A licence (HAREC: *harmonised amateur radio examination certificate*) to the radioamateurs holding a B licence (ON1) and the Decision of 26 October 2010 on the possibility for the holders of an ON3 radioamateur licence who have passed the exam before 15 September 2005 to apply for an ON2 call sign.

Examinations

The number of candidates for the basic licence amounts to 175 (144 in 2009). 85 candidates have taken the HAREC exam compared to 84 the year before. The success rate for the basic licence is 80.6% and 56.5% for the HAREC exam, which is a lot more difficult.

Maritime radio communications

a) Examinations and certificates

587 candidates participated in the SRC⁴⁶ exam (compared to 640 in 2009) with a success rate of 87.2%. 1,416 candidates turned up for the VHF exam (compared to 982 in 2009), 1,202 of which passed (84.9%).

For the GOC (*general operator's certificate*) and the ROC (*restricted operator's certificate*) exams the number of candidates was respectively 170 of which 151 passed and 96 of which 73 passed.

Over 45,000 persons hold a ship station licence. These licences are renewed every five years.

b) Licences

In 2010 the total number of ship station licences amounted to 16,007 (compared to 14,382 in 2009), distributed among 12,232 pleasure boats, 3,278 commercial river vessels, 353 seagoing vessels and 144 fishing boats.

Aeronautic radio communications

a) Certificates

In 2010, BIPT granted 362 operator certificates for an aeronautical station on the basis of examinations organised by the FPS Mobility and Transport, as compared to 364 in 2009.

5,600 persons currently hold an aeronautical station operator licence.

b) Licences

Currently 834 licences for aeronautical stations are managed by BIPT: 1,088 for installations on board aircraft and 746 for portable stations.






Equipment and spectrum monitoring

Managing and monitoring the electromagnetic spectrum guarantee that radio communications work properly for the benefit of all users. Because radio communications networks and equipment can be impacted by interferences, the fight against these interferences is imperative. For this purpose, prevention and repression are complementary policies although BIPT clearly favours the former policy. Indeed, its officers provide information and advice, they monitor and carry out inspections. Nevertheless they may draw up an official report for the offender and seize goods.

CONFORMITY OF EQUIPMENT

Radio and telecommunications terminal equipment may only be marketed if it complies with Directive 1999/5/EC of the European Parliament and the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity (R&TTE directive). According to this text the appropriate CE marking has to be affixed on all radio and telecommunications terminal equipment, on their packaging as well as on the accompanying documents.

The CE marking always includes at least the CE sign. This marking looks as follows: .

If a licence is needed for the use of the radio equipment or if the equipment uses frequencies, the use of which is not harmonised in Europe, the CE marking must include an alert sign (information sign). The CE marking looks at least as follows: . The information sign draws the user's attention to the fact that there are restrictions for the use of that device.

Radio equipment operating in frequency bands, the use of which is not harmonised in Europe (and which consequently bears the information sign in the marking) has to be notified to the Member State in which it is marketed. This is commonly known as the "obligation of notification", as stated in Article 6.4 of the Directive. In 2010, 858 types of devices have been reported through that procedure, which is a decrease by 5.3%. That is less than in 2009, which indicates that a smaller number of frequency bands is harmonised.

The European Commission makes the "One Stop Notification" or OSN procedure available on its server (<https://webgate.ec.europa.eu/osn>). The person who, according to Article 6.4, is responsible for the notification can send this to a central address. The system then distributes the application to the administrations of the Member States who have accepted the OSN principle. Up to now, 26 countries, including Belgium, have done so.

This procedure is very successful because out of 858 files submitted 825 (96%) were introduced by way of OSN. The rest was submitted by e-mail (27) or by letter (5).

Equipment using frequency bands of which the use is not harmonised throughout the European Community, does not have to be notified to BIPT. This equipment falls under the category named "Class 1".

It is advised to regularly consult the list of "Class 1" equipment. This list can be consulted directly on the site <http://www.ero.dk/rtte>, a subdivision of the ERO website (the European Radiocommunications Office). The technical parameters which this radio communication equipment has to comply with in order to fall under the "Class 1" category are also mentioned on this site and are linked to the reference number of the relevant subclass.

MONITORING OF EQUIPMENT

In 2010 it was established that a fairly large quantity of devices were still marketed that do not or only partially comply with the legal requirements. These infringements create unfair competition and disadvantage those manufacturers and importers who do observe the legal obligations (more quickly on the market – less costs). Such monitoring is conducted in everybody's interest, from manufacturers, importers and vendors to users and public authorities. Market surveillance is considered to be one of the keys to the successful implementation of the R&TTE Directive.

In 2010 more than 650 inspections were carried out, mainly in shops. In addition almost 70 public markets have been inspected. Inspections were also carried out on about a dozen exhibitions, principally in order to get an overview of the latest developments and to inform the exhibitors sufficiently beforehand.

On occasion it was deemed necessary to take disciplinary measures. The checks conducted in 2010 thus led to the seizures listed in the table below.

Equipment seized during checks in 2010			
Terminal equipment		Radio equipment	
Telephone equipment	7	Remote-controlled toys	611
		FM transmitters	301
		GSM equipment	266
		Scale models	247
		Low-power transmitters in the FM band	129
		Wireless game controllers	86
		Wireless USB and WiFi sticks	66
		Wireless audio and video equipment	54
		Other	633
TOTAL	7	TOTAL	2,393

Once again, regulations were often found to be violated, wittingly and unwittingly. Nevertheless the administrative requirements for terminal equipment as such are fairly straightforward. In the case of radio equipment operating in frequency bands, the use of which is not harmonised within the European Union, and which consequently has to bear the "alert sign" in the CE marking, it was often noted that there was no list of the countries in which such equipment may be used. BIPT believes that this information should always be included. This indispensable information has to be mentioned on the packaging as well as in the instructions for use. BIPT always takes action when this information is lacking. A potential buyer of such radio equipment needs that information to know whether the equipment may or may not be used. The use of such equipment in an unauthorised place may cause interference, with all ensuing consequences.

It was also noted that a great number of radio devices which do not comply with the prevailing legislation are still on the market. Moreover, some of these devices operate on frequencies that are not authorised in Belgium. In these cases as well BIPT has to intervene inevitably. This is probably partly because mail order is easier (via the Internet) and because of the often aggressive manner of advertising all kinds of cheap radio equipment (via spam mail). The price difference that is caused by, among other things, favourable exchange rates, can seduce a user into making a purchase on the Internet. This often involves equipment that is indeed similar but that is not destined for the European market. The buyer/importer has every interest in being adequately informed, as in that case, he will have sole responsibility.

Many irregularities are still being observed in the sector of radio controlled toys (remote control toy cars...). It occurs that these products do comply with the Toys Directive (the reviewed Directive 2009/48/EC that became effective on 20 July 2009), but that no heed was taken of the provisions in the R&TTE Directive.

The European Commission tries to remedy this by harmonising the terms and definitions used in the different directives ("Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC of the Council" and "Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93"). Multiple directives are waiting to be adapted to this Decision.

Postal items containing radio equipment are also frequently checked. In 2010 some seventy visits were paid to customs services in this context. Many of the items that were inspected, contained devices bought on the Internet – directly from the manufacturer or via an auction website (eBay for instance). In many cases the equipment does not comply with the legal requirements and is seized. The fact that numerous devices without CE marking (among which there are mobile phones and tablets) are offered on these auction sites, is disturbing. During a check such equipment was always seized. The party concerned is always notified of this. A device without a CE marking is not be allowed on the Belgian market.

When violations are observed, these are always reported and the goods are seized. These latest years the number of reports at the merchant's establishments has significantly decreased. The big majority of the reports is drawn up following the purchase of devices on the Internet that prove to be illegal upon inspection. The prosecutor's office takes charge of the further treatment of the violations. That means that there is no point in approaching BIPT for information about any case. The public prosecutor's office decides whether legal action is needed. In 2010, 511 initial reports were made. During the follow-up of the court cases, a further 47 reports were made.

In Belgium a BIPT licence has to be obtained before certain types of radio equipment can be possessed and used. Sellers of such equipment are required to have a general holder's licence. Until 2009 a general holder's licence was available for free. The Royal Decree on private radio communications and user rights for fixed networks and trunked networks (which became effective on 1 January 2010) lays down an annual fee (13.50 EUR in 2010) for obtaining this licence.

It is prohibited to sell such equipment to persons who do not have an individual licence. A monthly statement of sales has to be submitted to BIPT. This statement has to include the buyer's details. At the start of 2010, 140 French-speaking and 303 Dutch-speaking persons had a general holder's licence. These numbers were down by the end of the year (87 French-speaking and 225 Dutch-speaking holders). Before numerous merchants kept their general holder's licence in case they would sell equipment subject to licence. Because of the implementation of the annual fee many companies have decided not to do so anymore.

Additional explanation and information on the R&TTE Directive are available at the European Commission's website: <http://europa.eu.int/comm/enterprise/rtte/>. Apart from the text of the Directive this website also contains further clarification and generally accepted interpretations. On BIPT's website useful information is also available under "Equipment" in the section "Radio Communications".

All security services
have 24/7 access to
an NCS duty service

NATIONAL SPECTRUM MONITORING DEPARTMENT

The NCS (the National Spectrum Monitoring Department) is responsible for "policing the radio waves" in the broad sense of the word. In addition to the directorate in Brussels, the NCS has five monitoring centres across the country, in Anderlecht, Liège, Seneffe, Antwerp and Ghent.

Basically, its tasks can be broken down into five main categories:

Dealing with radio interferences

Every citizen and every authority can report to the NCS any radio interference of which they claim to be a victim. The NCS technicians, who have professional measuring equipment, track down the source of the interference and take the necessary measures to eliminate it.

The interference that is experienced may be of a very different nature. It may involve interference on air traffic frequencies – with disastrous consequences if it is not eliminated as soon as possible –, interference in professional networks – which may endanger the users' lives, such as networks used on construction cranes –, interference on GSM networks – causing companies that are essential to citizens' lives to get into trouble –, interference on the radio communications networks of the police ... Also possible is interference of various origin during the reception of radio and TV programmes – a tramway may interfere with the reception of a television programme – interference in small wireless equipment such as garage door remote controls – which experiences interference from the neighbour's wireless headphone, for instance – or baby alarms where instead of the baby talking only some electromagnetic creaky noise comes through ...

Also noteworthy is the fact that a number of GSM jammers interfering with GSM traffic, were confiscated in 2010.

Preventive inspections on professional radio networks

Most of the new radio networks are inspected by the NCS technicians. This ensures that these networks are set up in accordance with their licences and that the frequency, capacity and antenna height are compliant with the plans of the Frequency Management Department. It also means that the use of illegal transceivers can be curtailed.

Inspections during major events

The NCS is present at various events that attract a large number of radio frequency users, to ensure that licences are observed and to resolve cases of radio interference.

The sort of events that are monitored varies greatly: they range from a biking race such as the Flèche Wallonne or the Ronde van Vlaanderen or a local motocross to the Formula 1 Belgian Grand Prix in Francorchamps and from a local youth party to Rock Werchter, etc.

Collaboration with the police services and the public prosecutor's offices

The police services and the public prosecutor's offices regularly make use of BIPT's expertise in the field of radio communications.

Supplementary tasks

To enable them to perform their general task of policing the radio waves, the NCS members have the capacity of a criminal investigation officer and regularly join forces with the police services.

All security services have 24/7 access to an NCS duty service. The NCS has twenty-three fully equipped measurement vehicles at its disposal in order to conduct activities in the field.

In addition, the NCS has six fixed measuring stations, designed for the automatic monitoring of radio frequency use.

In 2010 BIPT was again present with a stand at the Ghent Boatshow. The Boatshow is the largest maritime exhibition of the country: each year it attracts 60,000 visitors. BIPT seizes this opportunity to provide information to users of radio equipment on boats about equipment requirements and operator certificates but also on exams, interference, etc. An info letter is published especially for the visitors to this event. More than 2,000 copies were handed out at BIPT's stand. In it the visitor finds news and information on all aspects of radio communications at sea and on inland waterways. The info letter can also be downloaded from BIPT's website.

The table below provides a round-up of activities conducted in 2010.

NCS Interventions	
"Interference" cases	383
Preventive checks on professional users	762
Checks during events	161
Monitoring of broadcasts	38
Inspection of radio installations on board of ships	234
Monitorings - other	266
Radiation measurements at transmission sites LNE Vlaanderen	155
Various cases – tasks performed at the request of authorities	581

The "Monitorings – other" category specifically includes monitorings of maritime frequencies, checks of radio amateurs or CB users, assistance during checks on the road ...



Technical tasks of public interest

BIPT carries out yet more tasks of general interest. The law has bestowed on BIPT the status of expert in scientific fields such as the measurement of electromagnetic fields and the security of networks.

ANTENNAS AND ELECTROMAGNETIC FIELDS

Following judgment 2/2009 of 15 January 2009 of the Constitutional Court BIPT is no longer authorised to check the environmental aspect of electromagnetic radiation. This power belongs to the regions from now on. Yet, BIPT is still competent for inspecting electromagnetic radiation around antennas. In 2010 a cooperation agreement was concluded between the Flemish Region and BIPT. The public submits an application with the Department "Environment, Nature and Energy"⁴⁷ to perform exposure measurements; a BIPT technician will then execute the necessary measurements.

COMBATING MALICIOUS COMPUTER SOFTWARE

The security of networks, the protection against unauthorised access, the manipulation or destruction of the information circulating or saved on them and the protection of users who are connected to them belong to the technological bases that are essential for the development of the information society and are to be protected as well as possible.

The national CERT ("Computer Emergency Response Team") has been integrated into BELNET, which offers Internet connectivity with the State, and with the Belgian academic institutions and universities. The CERT has been created by Fedict, the Federal Public Service Information and Communications Technology, which assumes the financial charges until December 2011. CERT® is a trademark of the Carnegie Mellon Institute. The Belgian CERT has been authorised by Carnegie Mellon to use this acronym, thereby indicating implicitly that the national CERT complies with the operational requirements imposed by Carnegie Mellon on a CERT. One of CERT's activities include watching out for computer threats, such as viruses.

SECURING NETWORKS

By taking part in numerous activities regarding network security both at national and international level, BIPT contributes to the security of the networks.

The result of the ever-increasing technological complexity is that IT and telecommunications are more and more interwoven. As to network security the added value offered by BIPT, as opposed to other federal bodies, is its unique expertise in the field of telecommunications and its privileged link to the telecoms operators. In that respect it is tasked by the authorities to fulfil a catalyst function toward the sector and has to make every stakeholder aware to make an effort for securing the networks; this involves the basic principle of precaution in terms of business continuity.

That is why BIPT cooperates with BeNIS, the "Co-ordination Platform on Information Security" created by the Government in 2005.

Some aspects of BIPT's contribution to Comixtelec also relate to the protection of networks in crisis situations, regardless of whether their origin is natural or created by man (voluntarily or not).

BIPT's activities are largely guided by European initiatives in that field. Council Directive 2008/114/EC of 8 December 2008 on the identification and designation of European critical infrastructures and the assessment of the need to improve their protection imposes on the Member States a number of measures in this field aimed at "business continuity". Although Directive 2008/114/EC is aimed at the transport and energy sectors, advantage was taken of its transposition into Belgian law to create a legal frame for the electronic communications and bank sector.

EMERGENCY SERVICES

Apart from investigating interference on the radio networks of the emergency services and eliminating it, BIPT also has the task to verify whether operators fulfil their legal duty to collaborate with the emergency services.

The political authorities decided in 2005 to incorporate into the Act of 13 June 2005 on electronic communications the calling line identification for calls to Teleonthaal/Téléaccueil centres, the Poison Centre, Zelfmoordpreventie/Prévention Suicide (centre for suicide prevention), Childfocus (the European centre for missing and sexually abused children) and children's telephone services offered by operators. This is necessary for emergency services, not only to enable them to act efficiently, but also to combat malicious calls that affect the vigilance of the emergency services. Unfortunately such calls increase as new services and technologies hiding the caller's identity arise. A similar measure was taken in 2009 for the emergency services who send help on the scene (urgent medical help, fire department and police). In 2010 a brainstorming was organised for the latter together with the emergency services involved but no final solution was found yet for these emergency services.

For emergency services that send help on the scene to intervene efficiently, it is not sufficient to show the caller's identification: the location is crucial in order for them to be able to send help. A Royal Decree⁴⁸ provides for this matter for the mobile operators. That Royal Decree aims at implementing a unique and effective procedure for mobile operators to send location data of a mobile call to the emergency services. An ad hoc group on localisation bringing together the operators and emergency services involved as well as BIPT, met several times during the second half of 2008 and elaborated a technical solution. A number of terms, especially the financing, were further elaborated, but the legal basis was introduced by the Act of 18 May 2009 pertaining to various provisions regarding electronic communications. The necessary implementation decrees were drawn up in 2010 but the government has not been able to study these yet.

The European number 116111 for child helplines and the number 116123 for psychological support helplines still have not been assigned in Belgium. The Belgian emergency services who are apt to operate these numbers showed no interest 1) because they were not prepared to give up their national three-digit numbers (which was a prerequisite for being allocated the 116XYZ number), 2) because of the difficulty that arose from various languages having to be supported by a single (emergency) number instead of three-digit numbers of which one determines the language in which the call will be taken.

LEGAL INTERCEPTION OF ELECTRONIC COMMUNICATIONS

In 2010 BIPT continued the list of the operators' "coordination cells for Justice", updating it if necessary and sending it to the department for criminal policy of the Federal Public Service of Justice.

As to the obligations regarding legal interception the Royal Decree of 9 January 2003 implementing Articles 46bis, § 2, subsection one, 88bis, § 2, subsections one and three, and 90quater, § 2, subsection three, of the Code of Prosecution and Article 109ter, E, § 2, of the Act of 21 March 1991 is still valid, as the former provisions of Article 109ter, E, § 2, were adopted in the Act of 13 June 2005, in Article 127 among others.

The draft Royal Decree amending the Royal Decree of 9 January 2003 will be put into effect in 2011 through a royal decree.

BIPT attended the meetings of the national consultation forum on telecommunications of the judicial and police services.

49. CONSULTATION ORGANISED BY THE BIPT COUNCIL AT THE REQUEST OF THE MINISTER OF ENTERPRISE AND SIMPLIFICATION OF 29 APRIL 2010 REGARDING THE PRACTICAL IMPLEMENTATION OF DIRECTIVE 2006/24/EC OF 15 MARCH 2006 (DIRECTIVE ON DATA RETENTION).
50. ARTICLES 46BIS AND 88BIS OF THE CODE OF PROSECUTION.

51. ACT OF 30 NOVEMBER 1998 REGULATING THE INTELLIGENCE AND SAFETY SERVICES, AMENDED BY THE ACT OF 4 FEBRUARY 2010 RELATED TO METHODS FOR THE COLLECTION OF DATA BY INTELLIGENCE AND SECURITY SERVICES (THE SO-CALLED BIM ACT).

DATA RETENTION

The European Parliament and the Council adopted Directive 2006/24/EC on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks services on 15 March 2006, also known as the "Data Retention Directive". That Directive was to be transposed into national law by 15 March 2007. Belgium seized the opportunity offered to get a delay until 15 March 2009 but that term expired in the meantime.

The European Directive lays down that no later than 15 September 2010, the Commission shall submit to the European Parliament and the Council an evaluation of the application of this Directive (or of its possible amendment, considering its sensitive nature).

The transposition of this Directive in the form of a Royal Decree and an amendment to Article 126 of the Act of 13 June 2005 was prepared by the NOT platform ("Nationaal Overlegplatform Telecommunicatie"), chaired by the Federal Public Service of Justice and the members of which are the Federal Public Service Economy, SMEs, Self-employed and Energy, BIPT, the federal police, the Board of the Procurators General, the examining magistrates, the federal public prosecutor's office and National Security.

BIPT submitted the draft transposition for consultation, which generated response from all parties involved in this file (the Human Rights League, ISPA Belgium, the Bar, the order of Physicians, etc.), stressing the protection of privacy.

After the issue of protecting the privacy, the issue regarding the compensation mechanism for operators remained. From a technical legislative point of view this issue is settled in the Annex to the Royal Decree of 9 January 2003 on the terms and conditions for cooperation in case of legal claims regarding electronic communications and in the Annex to the Royal Decree of 12 October 2010 regarding the specific rules for the legal obligation to cooperate in case of claims by intelligence and security services with regard to electronic communications.

At the end of 2009 the ministers in charge reached a consensus to entrust BIPT with the task of objectively determining the cost of the practical implementation of the Data Retention Directive. To that effect BIPT organised a consultation⁴⁹ on the subject in the spring of 2010.

As the goal of data retention exists in investigating, detecting and prosecuting serious violations⁵⁰ as well as the investigations carried out by the intelligence and security services⁵¹, BIPT interpreted the planned consultation in a broader sense than just the cost aspect of the data retention and the processes and procedures, as regards both the government and the operators included in the consultation. To draw up the consultation document BIPT held an intensive brainstorming with the members of the Nationaal Overlegplatform Telecommunicatie (NOT) of the FPS Justice. BIPT formulated an initial model as basis for discussion and reactions from the operators.

On 19 May 2010 BIPT organised an information meeting on this consultation with the operators and members of the NOT. The discussion between the operators and NOT members led to an initial fascinating exchange of information, ideas and visions.

The results of the consultations contributed to the finalisation of the Royal Decree on the obligation to cooperate as described above under "Legal interception of electronic communications".

An important result of the consultation and the meeting of 19 May 2010 is that a platform was created in which the operators and departments of the FPS Justice, represented in the NOT, are able to further exchange information, in the first place on data retention but in the future possibly also on other topics that concern both in order to improve the technical efficiency of the cooperation procedures that influence among other things the costs resulting from the cooperation. This platform met twice in 2010 after 19 May.

NATIONAL, EUROPEAN AND INTERNATIONAL COOPERATION

Exchanging knowledge and confronting points of view on technological developments are key tools in enabling people to take the right decisions. The BIPT officials constantly keep in touch with their Belgian, European and foreign peers. Through its active involvement in these exchanges, BIPT is able to follow and influence certain policies.

AT THE BELGIAN LEVEL

PARLIAMENT

BIPT informs Parliament on its activities through its annual report and the half-yearly management plans in which the progress made in the files treated is discussed at length.

As regards finances BIPT's draft budget was drawn up by the Council and approved by the Budget and Finance Ministers. The budget was also communicated to the Chamber of Representatives. The Council provided for BIPT's profit and loss account which has been approved by the Budget and Finance Ministers. The Minister of Finance submits BIPT's annual accounts together with the activity report to the State Court of Audit for inspection.

THE COMPETITION COUNCIL

The Act of 17 January 2003 on the appeals and the settling of lawsuits following the Act of 17 January 2003 on the status of the regulator of the Belgian postal and telecommunications sectors has entrusted the Competition Council with the task of settling certain disputes between operators, both in the field of electronic communications and the postal sector. To look into these matters the Institute appoints a representative to assist the officials of the competition authority in their tasks. BIPT ensures that the Competition Council's decisions in disputes are implemented.

Furthermore, the Act of 13 June 2005 provides for the intervention of the Competition Council in drawing up decisions BIPT has to take in the context of the market analyses imposed by the new European regulatory framework. Depending on the case the advice issued by the Competition Council is binding or not to BIPT.

In 2010 the Competition Council issued advice on the draft decisions it was sent on the following dates:

- + 22.05.10: draft decision regarding the addendum to market 1/07 (obligation to provide voice connectivity);
- + 22.05.10: draft decision regarding the market definition, the competitiveness analysis, the identification of SMP operators and the determination of appropriate remedies for market 7;
- + 8 September 2010: draft decision regarding market 10/03 (transit services market).

THE FEDERAL PUBLIC SERVICE ECONOMY, SMES, SELF-EMPLOYED AND ENERGY

Within the FPS Economy's crisis cell BIPT participated in the think tank on the continuity of the operation of the public electronic communications networks in case of crisis ("*Business Continuity Planning*"). This issue is closely related to the protection of the Belgian critical infrastructures and is also aimed at by the European guideline on the protection of European critical infrastructures. BIPT continued the consultation to determine BIPT's role in the management of the issues relating to guaranteeing continuity of the operation of the public electronic communications networks in crisis situations.

Moreover BIPT actively contributed together with Fedict and the Permanent Representation to the European Union to the coordination meetings that have been organised by the Directorate-General for Telecommunications and the information society (E9) of the FPS Economy. In the first place the goal of this working group was to exchange information on the way in which the different federal bodies in charge intend to implement the Digital Agenda 2020 of the European Commission. In a second place a national steering group shall be established with the federal bodies and federal entities to enable the follow-up and the implementation of the digital strategy.

THE MEDIA REGULATORS OF THE FLEMISH, THE FRENCH AND THE GERMAN-SPEAKING COMMUNITIES

In 2010 fifteen draft decisions of BIPT were sent to the community regulators (see table below). In addition the cooperation between the federal regulator (BIPT) and the CSA, the Medienrat and the VRM crystallised into a series of documents (see pages 47-51).

List of the draft decisions sent to the community regulators

Date*	Title of the draft decision
02/03/2010	Draft Decision regarding the introduction of the VDSL2 17 MHz technology
02/03/2010	Draft Decision regarding BROBA Ethernet
30/03/2010	Draft Decision regarding the granting to Liège Airport S.A. of a TETRA authorisation
30/03/2010	Draft Decision regarding BROBA Ethernet (qualitative aspects)
08/06/2010	Draft Decision regarding the BRUO Rental Fee
08/06/2010	Draft Decision regarding the rental fee for WBA VDSL2 "End User Line"
08/06/2010	Draft Decision on the extension of the temporary authorisation granted to Telenor Mobile Aviation AS for the use of the frequency spectrum allocated in Europe to mobile telephony in order to provide mobile telephony services on board aircraft flying over Belgian territory
22/06/2010	Draft Decision on the granting of an A licence (HAREC) to the radioamateurs holding a B licence (ON1)
29/06/2010	Draft Decision on the Ethernet transport costs for WBA and BROBA and the BROBA migration costs
03/08/2010 07/09/2010	Draft Decision on the WBA VDSL2 profiles based on the VDSL2 17 MHz technology
10/08/2010	Draft Decision renewing the Decision of 17 January 2007 on market analyses relating to leased lines
07/09/2010	Draft Decision regarding the granting to b.v.b.a. Security Monitoring Centre of a licence for the operation of a public alarm transmission network on the Belgian territory
21/09/2010	Draft Decision regarding the infringement proceedings of KPN Group Belgium on non-compliance with obligations regarding 3G services
21/12/2010	Draft Decision on the extension of the temporary licence granted to ONAIR SWITZERLAND SARL
21/12/2010	Draft Decision on the WBA VDSL2 profiles based on the VDSL2 17 MHz technology

* Date or dates of the meeting of the Council during which the Council decided to send the draft to the community regulators

THE OFFICES OF THE OMBUDSMEN

From the early onset of the liberalisation of telecommunications an Office of the Ombudsman was established that would deal with the complaints of consumers. The power of the Office of the Ombudsman for the Postal Sector extends to all players in the sector in spite of a continuing liberalisation.

The independence of these services has been established by law. The only part BIPT plays in this is providing officials.

BIPT intends to reinforce its collaboration with the Offices of the Ombudsmen for the postal services and for telecommunications. BIPT indeed does not deal with individual complaints of the end-users but does have the knowhow that may enable the Office of the Ombudsman to provide utterly objective advice. Thanks to the closer collaboration, BIPT will likewise be better informed of the unlawful practices and will be able to act based on the feedback from the field.

THE CONSULTATIVE COMMITTEES

1. The Consultative Committee on Postal Services

The Committee is still awaiting a royal decree laying down its composition and operation which was submitted to the Minister of Enterprise and Simplification in 2009.

In 2010 the Committee met twice:

- + on 1 April it was consulted to offer advice on the 5th management contract between La Poste and the Belgian State;
- + on 22 April it offered advice on the draft budget of the Office of the Ombudsman.

2. The Consultative Committee on Telecommunications

In its plenary meeting of 3 February 2010 the Committee finally decided to establish three new working groups: the Working Group "Implementation of Directives", the Working Group "Networks and Services" and the Working Group "Frequencies".

In 2010 the Committee issued six recommendations. These recommendations, together with the recommendations the Committee has issued since 2006, can be consulted on and downloaded from the site: www.rct-cct.be.

AT THE EUROPEAN LEVEL

EUROPEAN COMMITTEE FOR POSTAL REGULATION (CERP)

BIPT attended CERP's plenary meetings in Cracow and Istanbul during which the activities of the project groups were presented: cost accounting, price regulation, universal service financing, consumer protection, statistics, task of the regulatory bodies, sustainable development, market monitoring, policy and universal service.

The principal agenda item was however the reorganisation of CERP following the establishment of the *European Regulators Group for Postal services* (ERGP), namely the European cooperation between postal regulators. Because of the establishment of the ERGP CERP has to adapt its structure and change its rules. At the latest plenary meeting there was an agreement on CERP's new structure in order for CERP to continue its adapted main mission in the future.

Furthermore fora were organised on the two following themes: "What measures are necessary to ensure that transparent, non discriminatory access conditions are available to elements of postal infrastructure?" and "What are the needs for private consumers concerning the scope of universal service, taking into account the changes in the technical, economic and social environment?"

Within CERP, BIPT coordinated two project groups in 2010:

- + On the one hand there is the Group "Market Supervision" that focuses on collecting results regarding the monitoring of the postal items' delivery times as well as the issues regarding the delivery of post by detecting the related problem points.
- + On the other hand there is the Group "Sustainable Development", which in the future wanted to focus on the analysis of the impact of liberalisation on the environment. The analysis will deal with the impact of the possible construction of new networks for collection and delivery in relation to the decrease of greenhouse gases. As is common knowledge, the postal sector is a large paper and fuel consumer.

BIPT is also a member of this organisation's Steering Group and has intensively contributed to the de-

velopment of the new structure; the adaptation of the internal regulations guarantees, through this Committee that new initiatives shall be launched.

EUROPEAN REGULATORS GROUP FOR POST (ERGP)

The European Regulators Group for Post (ERGP) met for the first time since its establishment by the European Commission on 1 December 2010. This inaugural meeting of 1 December 2010 was organised by BIPT in Brussels in the context of the Belgian chairmanship of the European Union. Now that the postal markets are liberalised throughout Europe, a stronger collaboration between independent national regulatory bodies is becoming increasingly important. To lay down the best practices in the field of regulation, the ERGP constitutes an integral part of an internal postal market and becomes the driving force to ensure that the European citizen has an actual choice as a result of a competitive market, which will also have a positive impact on innovation within the fast-growing sector of postal delivery.

The ERGP shall determine the best regulatory practices for the whole of Europe and shall assist the European Commission as an expert in postal issues. The ERGP has to stimulate the consultations, coordination and cooperation among the independent national regulatory bodies and between those bodies and the Commission. The ERGP is composed of the chairmen of 27 national postal regulators and shall be assisted by the secretariat the European Commission will provide for.

During the opening meeting regulators studied and adopted two essential documents explaining the ERGP's operation: (1) *Rules of Procedure*, and (2) *Work Programme* for 2011-2012. A working programme was established for two years in which the regulators committed themselves to working on regulatory issues such as the allocation of common costs, the calculation of the net costs of the Universal Service Obligation (USO), emphasising in particular the consequences of the VAT exemption, end-user satisfaction and monitoring of the market results, cross-border products and access to the network, especially for routers. It should be noted that the ERGP shall take over part of CERP's activities (see below).

The working group "*End-user satisfaction and monitoring of market outcome*" is chaired by BIPT together with the Portuguese regulator, ICP-ANACOM.

THE POSTAL DIRECTIVE COMMITTEE AND OTHER EC ACTIVITIES

BIPT kept in touch with the developments regarding the implementation of the Postal Directive and attended meetings of the "*Postal Directive Committee*" on the application of rules regarding government public procurements in the postal sector, VAT in the postal sector, international developments, the creation of the ERGP and the relations between WTO-UPU-EU. Furthermore BIPT participated in the workshops of the Postal Directive Committee that has to assist the member states in the transposition of the third Postal Directive. During these workshops the following elements of the Postal Directive were discussed among other things: cross-border postal services and the intangible benefits of the universal service.

BIPT attended the plenary meeting of the European Committee for Standardisation of postal services in Brussels and Sofia. CEN/TC 331 "Postal Services" harmonises the quality standards at European level. This standardisation is an indispensable tool to guarantee interoperability between the various national networks and an efficient universal service in the European Union. BIPT mainly monitors the adaptations to the existing European quality standards.

COCOM

As regards the COCOM (*Communications Committee*) the activities were mostly focused on the draft recommendation on regulated access of the next generation (NGA), the mobile satellite services and the implementation of the new regulatory framework. The Commission presented different basic documents that are useful for the pending transposition relating to themes such as regulator independence, the shared use of network elements, the retention of personal data and the limits for including broadband in the universal service. The activities regarding the collection of broadband data and the follow-up of the procedure of Article 7 were continued.

RADIO SPECTRUM POLICY GROUP (RSPG)

A milestone in the activities of the RSPG is the approval of the long-range plan regarding the radio spectrum that has to serve as basis for the policy decisions for the next five years.

The RSPG also approved a report on the frequency coordination problems and related issues regarding the digital dividend, as well as a report on the impact of digital broadcasting. The group concentrated further on the topic of "cognitive radio" and on the preparation and negotiation process of the following ITU World Radio Conference (WRC-12). On the other hand the RSPG continued the common activities with BEREC on transition issues in the mobile sector and the shared use of infrastructure.

The RSPG, which is among other things entrusted with advising the European Commission (20/622/EG) on the preparation of the long-range plan for spectrum management and proposing joint management goals to the European Parliament and the European Council, followed the discussions in the Council's working group from up close during the second semester of 2010 under Belgian chairmanship.

RADIO SPECTRUM COMMITTEE (RSC)

Following the evaluation of Commission Decision 2005/50/EC on the harmonisation of the 24 GHz range radio spectrum band for the time-limited use by automotive short-range radar equipment in the Community (the so-called automotive short-range radar systems) in the Community and the CEPT interim reports as a response to the first and second part of the EC mandate for the execution of technical audits, a first draft for amendment of this decision was discussed. The EC launched a public consultation on 14 December for the sector on this draft amendment.

The proposition reviewing the Annex to Decision 2006/771/EC of the European Commission on the harmonisation of the radio spectrum for the use of short-range equipment was adopted and is published as Decision 2010/368/EC of the Commission. It is intended to review this extensive annex to this Decision 2006/771/EC at regular intervals from now on.

The RSC adopted the draft Commission Decision on harmonised technical conditions of use in the

790-862 MHz frequency band for terrestrial systems capable of providing electronic communications services in the European Union (the digital dividend) by qualified majority. This is published as a Decision of the Commission (2010/267/EU) of 6 May 2010.

The draft Decision on harmonised conditions of use of radio spectrum for mobile communication services on board vessels (MCV services) in the European Union was submitted for voting to the EU member states and the RSC and was adopted. This regards the use of GSM 900 MHz and GSM 1800 MHz frequencies on board vessels in territorial waters. It was published as a Commission decision (2010/368/EC).

Attention was also paid to the possible compatibility problems between LTE/WIMAX in the 2.5 – 2.69 GHz band and the primary aviation radars in the 2.7 GHz band.

BIPT is also actively involved in the European fora (European Commission, TCAM Committee (*Telecommunications Conformity Assessment and Market surveillance*), ECC (*Electronic Communications Committee*), Administrative Cooperation (ADCO), ETSI (*European Telecommunications Standard Institute*), EMC Working Party (*electromagnetic compatibility*)). These groups labour for the realisation of the harmonisation of market monitoring.

Within TCAM the R&TTE Directive is being reviewed. In this context BIPT participated in important preparatory working groups. Account is also taken of the adaptation of the R&TTE Directive to the "Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC of the Council" and "Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93". In this context the European Commission distributed a first "non paper".

The preparations to adapt the EMC Directive to the "Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93" are also followed up closely.

EUROPEAN CONFERENCE OF POSTAL AND TELECOMMUNICATIONS ADMINISTRATIONS (CEPT)

BIPT attended different CEPT meetings such as the plenary meeting of the ECC (*Electronic Communications Committee*), the FM working group (*Frequency Management*), the RA working group (*Radio Affairs*). BIPT also helped with CEPT's coordination activities preparing ITU's 2010 Conference of Plenipotentiaries.

The following working groups represent each a special interest to the NCS (the national spectrum monitoring department).

CEPT/ERC/WGFM-PT22 (Monitoring)

This working group unites the technical departments of the CEPT administrations who are tasked with spectrum monitoring and monitoring with a view to standardising the measuring procedures, with measuring campaigns at the request of other CEPT bodies and with exchanging technical information.

CEPT/RA1 (Enforcement)

This working group unites the different departments of CEPT that are in charge of the market monitoring, the fight against radio interference and the monitoring of the spectrum. It issues common rules and stimulates the exchange of information among these bodies. In 2010 the results of the latest benchmarking campaign of the different European monitoring bodies (*ECC Report on Enforcement Benchmarking*) were published.

The United Kingdom worked hard on the organisation of the frequency monitoring that will have to be put into operation during the 2012 Olympics and asks for assistance from the monitoring bodies from other countries. A number of BIPT staff members will be committed to that effect.

Comité RAINWAT (Maritime)

The Regional Arrangement concerning the Radiotelephone Service on Inland Waterways is a regional arrangement concluded between 17 countries, mainly Rhine and Danube countries. The purpose of this arrangement was to establish common safety principles and rules on inland waterways. During this year's meetings a complete overhaul of the agreement has been worked on.

Belgium is also the webmaster (<http://www.rainwat.bipt.be/>) for these international meetings. The international agreement can be downloaded from

that website (French/German/English). The Dutch version can be found on the BIPT website.

CEPT/WGFM-PT46 (Maritime)

The PT46 working group is a CEPT assembly having preparatory talks on the implementation of the regulation for sea-going vessels. This meeting monitors development in the navigational sector. General and recurring agenda items are among other things: the global system for distress and safety at sea, the GMDSS system, amendments of recommendations to obtain the GMDSS certificates, information on other maritime meetings such as Comsar (subcommittee of the IMO), new maritime applications... This year special attention was paid to the rise of a great number of new 'Man Over Board' systems (MOB). Part of the MOB equipment uses the emergency frequencies of the GMDSS system (e.g. CH16 or CH70). One of the consequences of this is that the equipment may cause interference for the GMDSS system. A solution to this problem is being sought after worldwide. Furthermore the recommendations for exam programmes for SRC and LRC certificates were finished. Recently a working document was published on the ERO website (<http://www.ero.dk>) on the use of PLBs (personal locator beacons) in the CEPT countries.

Through the cell **Numbering management** within the Technology department, BIPT chairs the working group "*Numbering, Naming and Addressing*" of the CEPT/ECC. Progress was made in the field of harmonisation of numbering plans in Europe, the numbering for M2M communication (machine to machine) and the future development of the geographical numbers, the development of supplementary tools for the number 116 and the development of measures aimed at guaranteeing the integrity of calling line identification (CLI).

BIPT was elected chairman of the newly established working group "Numbering and Networks" within the ECC.

European Networks and Information Security Agency (ENISA)

In 2010 BIPT monitored the activities of ENISA, the European Network and Information Security Agency. ENISA regularly publishes documents regarding security matters for citizens, SMEs and governments. These documents can be consulted on the following site: <http://www.enisa.europa.eu/publications>.

On 15 September 2008 the European Parliament agreed to the renewal of the agency's mandate for three years and thereby allowed full play for a review of the regulation and especially of the tasks regarding ENISA, that will come into effect at the end of the three-year renewal of the mandate.

BODY OF EUROPEAN REGULATORS FOR ELECTRONIC COMMUNICATIONS (BEREC)

Following the publication of the Telecom package on 18 December 2009 the establishment of the Body of European Regulators for Electronic Communications (BEREC) became a fact. BEREC is composed of the national regulatory authorities (NRAs) for electronic communications of the European Union member states.

The establishment of BEREC constitutes a milestone in the evolution of the electronic communications sector in Europe. BEREC shall contribute to the accomplishment of the internal market for electronic communications in Europe by cooperating in order to apply the regulatory framework consistently throughout the European Union.

BEREC's establishment imparts the NRAs with a formal role at the highest level in the EU in order for them to conduct a coherent policy for the benefit of the European industry and the consumer. 2010 was a runway year for BEREC and it took off well, both from an institutional point of view and from a professional perspective through the realisation of an ambitious working programme.

The official inauguration of BEREC took place in the historical Egmont Palace in Brussels on 28 January. On the agenda of the first meeting there was the election of the chairman and the vice-chairmen and the approval of the draft work programme and the first steps to lay down the implementation of the BEREC Office. The first meeting was attended by Commissioners Reding and Kroes together with highranking representatives of the European Parliament and the chair of the Council.

In 2010 Belgium also chaired the Council. This considerably facilitated the establishment of BEREC. The last BEREC meetings of the year also took place in Belgium, namely in Bruges, on 2 and 3 December.

In 2010 the Latvian government submitted its can-

didacy to have the BEREC headquarters installed in Riga. After the decision was taken an agreement concerning the seat was closed, the necessary offices were equipped and the first staff members were recruited.

The Implementation working group, which prepared the creation of the BEREC Office, was chaired by BIPT until the end of September. Starting from October that task was assumed by the appointed administrative manager of the Office, located in Riga.

When drawing up its work programme BEREC focused its activities on the transitional phase, since the revised framework will enter into force from the transposition of the directive at the end of May 2011.

BEREC's 2010 work programme was organised in three interrelated parts:

- + harmonisation;
- + new challenges;
- + changes in legal regulation.

A special milestone was BEREC's opinion on the draft NGA recommendation. At the same time, it was the first opportunity for BEREC to use its new powers and responsibilities under the revised framework, in which the Commission has to take maximum account of the BEREC opinions.

The finalisation of the working programme and other BEREC tasks and functions depends on the preparatory work carried out by the expert working groups. BIPT participated very actively in these EWGs' activities.

AT INTERNATIONAL LEVEL (OUTSIDE THE EUROPEAN UNION)

THE UNIVERSAL POSTAL UNION (UPU)

In 2010, BIPT assumed its responsibility as a representative of Belgium in the Council of Administration. It participated in UPU's activities during the Postal Operations Council's (POC) and Council of Administration's (CA) sessions in May and November of 2010.

Both in the "Reform of the Union" and the "Acts of the Union" working group, the coordination of which has been entrusted to BIPT, specifically two values have been developed, namely expertise and dialogue. The expertise took shape in the presentation to the Union's CA of the "*Legal aspects of the Universal Postal Union's Status as a United Nations Specialized Agency and its Extrabudgetary Activities*" study performed by BIPT in a partnership with the Free University of Brussels, thus enabling the "Reform of the Union" working group to optimise its activities and to proceed consistently in its search for concrete solutions, especially regarding the status of the extrabudgetary activities of the Union.

BIPT also played an active role in the study commissioned by the UPU to Price Waterhouse Cooper (PWC) regarding the "*Impact of new players in the postal sector of the Union and its mission and activities*" (as yet not published on the UPU website). In the basic files treated by BIPT its representatives have always focused on constructive dialogue with all stakeholders, making it possible in a technical project such as the reform of the Acts of the Union to achieve results and to gain worldwide recognition.

After having drawn up the World Postal Strategy, adopted in 2008 by the Geneva Congress, BIPT is now carrying out a supervisory task in Commission 4 of the UPU's CA, in order to ensure this plan is implemented correctly.

BIPT also focused on matters such as terminal dues, network interconnectivity and sustainable development.

The procedure concerning the Belgian approval of the Acts of the Geneva Congress and the case submitted to the competent minister for approval by the Senate is still going on.

"INDUSTRIAL PLANNING AND COMMUNICATION SYSTEMS GROUP" OF NATO'S "CIVILIAN EMERGENCY PLANNING" DEPARTMENT

BIPT chairs this working group from 4 June 2008 for a period of three years. The working group deals with topics related to electronic communications in crisis situations and supporting aid provided in crisis situations, and issues recommendations in this field.

INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS (ICANN)

The introduction by ICANN of the new generic top-level domain names was followed up, along with the institutional evolution of ICANN, including within the framework of the interaction with national authorities. A position was drawn up regarding the GAC secretariat. The *High Level Group on Internet Governance* coordinates the European Union's viewpoint in that domain. The IGF case (*Internet Governance Forum*) was passed on to the FPS Economy, SMEs, Self-employed and Energy.

INTERNATIONAL TELECOMMUNICATION UNION (ITU)

In October, BIPT participated in the ITU Conference of Plenipotentiaries in Guadalajara, Mexico. Within the framework of the Belgian chairmanship BIPT was entrusted with coordinating the positions of the EU countries at the conference. The Belgian delegation's mediating role also helped to reach an agreement between Israel and the Palestinian Authority concerning the status of Palestine in the ITU and mutual cooperation in the field of telecommunications.

The Institute also sits on the Administrative Council of the European Radiocommunications Office in Copenhagen. This office supports CEPT's tasks.



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PRACTICAL INFORMATION

List of acts adopted by the Council in 2010

Decisions of general interest	
12/01/2010	Decision of the BIPT Council of 12 January 2010 regarding the conformity of Belgacom's cost accounting system for 2008 (public and confidential version)
02/02/2010	Decision of the BIPT Council of 2 February 2010 regarding an amendment to Annex 6 to the BROBA offer
26/02/2010	Decision of the BIPT Council of 26 February 2010 regarding the granting to ABS VHF Solutions BV of a licence for the operation of a public radiolocation network on the Belgian territory
19/03/2010	Decision of the BIPT Council of 19 March 2010 on radio interfaces B2.1, B2.2 and B2.3
14/04/2010	Decision of the BIPT Council of 14 April 2010 aiming at imposing provisional measures to guarantee accessibility of the VAS numbers from the BASE network
15/04/2010	Decision of the BIPT Council of 15 April 2010 on the implementing terms regarding the separate accounting obligation of Mobistar and Belgacom (application and implementation of Article 60 of the Act of 13 June 2005 on electronic communications)
04/05/2010	Decision of the BIPT Council of 4 May 2010 regarding the introduction of the VDSL2 17 MHz technology
04/05/2010	Decision of the BIPT Council of 4 May 2010 regarding BROBA Ethernet
04/05/2010	Decision of the BIPT Council of 4 May 2010 regarding the cost of capital for SMP operators in Belgium
11/05/2010	Decision of the BIPT Council of 11 May 2010 concerning the granting to Liège Airport S.A. of an authorisation for the operation of a public trunked radio network according to the TETRA standard.
28/06/2010	Decision of the BIPT Council of 28 June 2010 imposing an administrative penalty upon Belgacom for non-compliance with Article 108, § 2, of the Act of 13 June 2005 on electronic communications
29/06/2010	Decision of the BIPT Council of 29 June 2010 on the definition of markets, the analysis of terms of competition, the identification of SMP operators and the definition of appropriate obligations for market 7, selected in the European Commission Recommendation of 17 December 2007
29/06/2010	Decision of the BIPT Council of 29 June 2010 imposing an administrative penalty upon Day By Day Courier Service for non-compliance with Article 45ter, § 4 of the Act of 21 March 1991 on the reform of certain economic public companies
10/06/2010	Decision of the BIPT Council regarding the analysis of the tariff proposal for full tariffs per piece for the year 2010
30/06/2010	Decision of the BIPT Council of 30 June 2010 on radio interfaces B8.7 up to B8.12
27/07/2010	Decision of the BIPT Council of 27 July 2010 on the Ethernet transport costs for BROBA and WBA and the BROBA migration costs (public and confidential version) <i>Withdrawn and replaced by the decision of 6 August 2010 because of a clerical error.</i>
22/07/2010	Decision of the BIPT Council of 22 July 2010 on the extension of the temporary authorisation granted to Telenor Mobile Aviation AS for the use of the frequency spectrum allocated in Europe to mobile telephony in order to provide mobile telephony services on board aircraft flying over Belgian territory
03/08/2010	Decision of the BIPT Council of 3 August 2010 regarding the Rental Fee for WBA VDSL2 "end-user line"
03/08/2010	Decision by the BIPT Council of 3 August 2010 regarding the BRUO rental fee
06/08/2010	Decision of the BIPT Council of 6 August 2010 on the Ethernet transport costs for BROBA and WBA and the BROBA migration costs
10/08/2010	Decision of the BIPT Council of 10 August 2010 renewing the decision of 11 August 2006 regarding the analysis of Market 16: voice call termination on individual mobile networks
07/09/2010	Decision of the BIPT Council of 7 September 2010 on the granting of an A licence (HAREC) to the radioamateurs holding a B licence (ON1)
07/09/2010	Decision of the BIPT Council of 7 September 2010 regarding the analysis of the tariff proposal for full tariffs per piece for the year 2009
07/09/2010	Decision of the BIPT Council of 7 September 2010 on the reallocation of a number of number blocks
14/09/2010	Renewal decision of 14 September 2010 correcting the decision of 17 January 2007 regarding the leased lines market analyses

14/09/2010	Decision of the BIPT Council of 14 September 2010 imposing an administrative fine on Telenet due to non-compliance with Article 14, § 2, 2°, of the Act of 17 January 2003 on the status of the regulator of the Belgian postal and telecommunications sectors, and with Article 137 of the Act of 13 June 2005 on electronic communications
29/09/2010	Decision of the BIPT Council of 29 September 2010 regarding the WBA VDSL2 profiles based on VDSL2 17 MHz
06/10/2010	Decision of the BIPT Council of 6 October 2010 regarding the granting to b.v.b.a. Security Monitoring Centre of a licence for the operation of a public alarm transmission network on the Belgian territory
26/10/2010	Decision of the BIPT Council of 26 October 2010 concerning the possibility for the holders of an ON3 radio amateur licence who passed their exam before 15 September 2005 to apply for an ON2 call sign
29/10/2010	Decision of the BIPT Council of 29 October 2010 regarding the infringement proceedings of KPN Group Belgium on non-compliance with obligations regarding 3G services
09/11/2010	Decision of the BIPT Council of 10 November 2010 correcting the decision of 3 August 2010 regarding the Rental Fee for WBA VDSL2 "end-user line"
09/11/2010	Decision of the BIPT Council of 10 November 2010 correcting the decision of 3 August 2010 regarding the BRUO rental fee
07/12/2010	Decision of the BIPT Council of 7 December 2010 imposing an administrative penalty upon C.I.T. Express Logistics for non-compliance with Article 45ter, § 4 of the Act of 21 March 1991 on the reform of certain economic public companies

Consultations

06/01/2010	Consultation of 16 December 2009 regarding the introduction of the VDSL2 17MHz technology
06/01/2010	Consultation on the draft decision of the BIPT Council on radio interfaces B2.1, B2.2 and B2.3
01/02/2010	Draft decision of the BIPT Council on the analysis of market 7 as listed in the European Commission's Recommendation of 17 December 2007 (voice call termination on individual mobile networks)
09/02/2010	Draft Decision of 9 February 2010 concerning the rental fee for WBA VDSL2 end-user line
09/02/2010	Draft Decision of 9 February 2010 concerning the BRUO rental fee
20/03/2010	Public consultation at the request of the Infrastructure Commission of the House of Representatives on a bill amending the Act of 13 June 2005 on electronic communications concerning the social telephone tariff
02/04/2010	Summary of the reactions to the public consultation of 12 November 2009 on the special tariffs of La Poste for the services intended for non-residential customers, bulk mailers or consolidators
12/04/2010	Draft Decision of 28 March 2010 concerning the Ethernet transport costs for BROBA and WBA and the migration costs for BROBA
12/04/2010	Consultation on the draft Decision of the BIPT Council on radio interfaces B8.7 up to B8.12
14/04/2010	Consultation held by the BIPT Council on the analysis of the tariff proposal of individual full tariffs for the year 2010
29/04/2010	Consultation organised by the BIPT Council at the request of the Minister of Enterprise and Simplification of 29 April 2010 regarding the practical implementation of Directive 2006/24/EC of 15 March 2006 (directive on data retention)
30/04/2010	Consultation of 29 April 2010 regarding the extension of the usage of Ethernet transport
03/05/2010	Draft Decision of the BIPT Council of 20 April 2010 concerning the reallocation of a number of number blocks
09/06/2010	Synthesis report of the Q&A session on 19 May 2010 about the consultation organised by the BIPT Council at the request of the Minister of Enterprise and Simplification of 29 April 2010 regarding the practical implementation of Directive 2006/24/EC of 15 March 2006 (directive on data retention)
16/06/2010	Public consultation of 14 June 2010 on an addendum to the analysis of market 1(07) (second round) concerning voice connectivity
21/06/2010	Draft Decision of 17 June 2010 concerning the WBA VDSL2 profiles based on VDSL2 17MHz
24/06/2010	Consultation on the granting of an A licence (HAREC) to the radioamateurs holding a B licence (ON1)
24/06/2010	Public consultation of 9 June 2010 regarding calls to VAS from mobile networks
30/06/2010	Communication on the extension of the deadline for the public consultation on the addendum to the analysis of market 1
10/09/2010	Possibility for the holders of an ON3 radio amateur licence who passed their exam before 15 September 2005 to apply for an ON2 call sign

30/09/2010	Consultation of 7 September 2010 on setting out the numbering policy relating to M2M communications
30/09/2010	Consultation of 7 September 2010 on the possible interpretation and impact of the provision that numbers are to be ported/activated within one working day and other aspects referred to in Article 30.4 of the new Universal Service Directive.
01/10/2010	Synthesis report of the consultation organised by the BIPT Council at the request of the Minister of Enterprise and Simplification of 29 April 2010 regarding the practical implementation of Directive 2006/24/EC of 15 March 2006 (directive on data retention)
18/10/2010	Public consultation on the draft Strategic Plan 2010 - 2013
22/10/2010	Summary of the consultation on the bill amending the Act of 13 June 2005 on electronic communications concerning the social telephone tariff
09/11/2010	Draft Decision concerning the reference offers BRU0/BROBA/WBA 2010/BROTSoLL 2010 (Open Calendars, Belgacom Certified Technicians and BROBA Ethernet Dedicated VLANs)
08/12/2010	Summary of the contributions to the Consultation of 29 April 2010 regarding the extension of the usage of Ethernet transport
09/12/2010	Draft Decision regarding cost accounting for Small Network Adaptations
18/12/2010	Consultation organised by the BIPT Council at the request of the Minister of Enterprise and Simplification of 18 December 2010 regarding the transposition of Directives 2009/136/EC and 2009/140/EC
21/12/2010	Draft Decision of the BIPT Council of 20 December 2010 on the analysis of the broadband markets
21/12/2010	Draft Decision of the BIPT Council on the analysis of the television broadcasting market
22/12/2010	Consultation of 20 December 2010 on the assessment of the ISPA Code of Conduct regarding e-mail and web space access in accordance with Articles 121/1 and 121/2 of the Act of 13 June 2005 on electronic communications
23/12/2010	Consultation organised by the BIPT Council on the draft Decision of the BIPT Council of 5 October 2010 relating to the posterior approval of the tariff increases introduced by the designated universal service provider, bpost, in 2009 for the reserved preferential and conventional services in accordance with Article 33 of the Royal Decree implementing title IV of the Act of 21 March 1991 on the reform of certain economic public companies
23/12/2010	Consultation by the BIPT Council on the draft Decision of the BIPT Council of 5 October 2010 on monitoring the delivery times for 2008 of domestic priority single piece letter post items, domestic non-priority single piece letter post items, domestic registered single piece letter post items, domestic single piece postal parcels and incoming priority cross-border single piece letter post items

Communications	
12/02/2010	Study by Analysys Mason and Hogan & Hartson on "Future Regulation of Wireless Access in the 790 MHz-3400 MHz Spectrum Bands"
24/03/2010	Communication by the BIPT Council of 24 March 2010 on the confidential treatment of secret information
24/03/2010	Communication by the BIPT Council of 23 February 2010 on the results of the survey of November 2009 related to the behaviour and wishes of private individuals about the universal postal service in Belgium
30/03/2010	Communication by the BIPT Council of 17 March 2010 regarding the limits of the declaration and licensing system
15/04/2010	List of postal operators having been granted an individual licence for providing a non-reserved service that is part of the universal service
17/05/2010	Communication of the BIPT Council of 4 May 2010 regarding calls to value added services from mobile networks
22/06/2010	Communication of the BIPT Council of 22 June 2010 concerning the entry into force of the new decision regarding market 7: voice call termination on individual mobile networks
18/11/2010	Communication of the BIPT Council of 10 November 2010 on the new tariffs for the rental fees for BRUO and WBA VDSL2 "end-user line"
18/11/2010	Communication of the BIPT Council of 10 November 2010 on the BROBA and WBA Ethernet transport costs and on the BROBA migration costs
24/11/2010	Communication of the BIPT Council concerning a call for candidates who want to obtain rights of use for frequency bands 3410-3500 / 3510-3600 MHz
24/12/2010	Communication of BIPT concerning a study on compatibility between LTE systems and radars in the 2700-2900 MHz band
Opinions	
23/03/2010	BIPT opinion of 23 March 2010 on the draft Royal Decree amending the Royal Decree of 7 March 1995 on the establishment and operation of GSM mobile telephone networks, the Royal Decree of 24/10/1997 on the establishment and operation of DCS-1800 mobile telephone networks and the Royal Decree of 18 January 2001 fixing the specifications and the procedure for granting licences for third-generation mobile telecommunications systems
23/03/2010	BIPT opinion of 23 March 2010 on the draft Royal Decree regarding radio access in the 2500-2690 MHz frequency band
14/09/2010	Opinion of the BIPT Council of 14 September 2010 regarding the Taxipost 24H Mini proposed by bpost
16/11/2010	Opinion of the BIPT Council of 16 November 2010 on the national residential (non contractual) Premium parcel offer proposed by bpost
Press releases	
01/02/2010	BIPT proposes to lower voice call termination rates on mobile networks in Belgium
29/06/2010	Belgacom fined for violation of consumer rights
30/06/2010	BIPT imposes lower voice call termination rates on mobile networks in Belgium
10/08/2010	BIPT is adding the final touches to the regulation of the VDSL2 wholesale offer
17/11/2010	BIPT closes the infringement proceedings against KPN Group Belgium concerning the provision of UMTS services in the 2100 MHz band
20/12/2010	BIPT, CSA, VRM and the Medienrat propose the opening of the cable through a historic collaboration
21/12/2010	Broadcast & broadband market analysis

Texts published in the Belgian Official Gazette in 2010 with a view to the amendment and/or implementation of the Acts of 17 January 2003 and of 13 June 2005

Date	Belgian Official Gazette	Title
4/02/2010	10/03/2010	Act on the methods for inquiry and security services to collect data
26/02/2010	16/03/2010	Royal Decree regarding the transfer of user rights for radio frequencies entirely or partially used for electronic communications services offered to the public
15/03/2010	25/03/2010	Act amending Article 30 of the Act of 13 June 2005
6/04/2010	16/06/2010	Act amending Article 30 of the Act of 13 June 2005 on electronic communications relating to switching operators
7/04/2010	6/05/2010	Ministerial Order allowing a departure from the annual distribution of the universal directory in accordance with Article 30 of the annex to the Act of 13 June 2005 on electronic communications
12/10/2010	8/11/2010	Royal Decree laying down the terms for the legal duty to cooperate in case of demands from inquiry and security services relating to electronic communications
13/12/2010	31/12/2010	Act of 13 December 2010 amending the Act of 21 March 1991 on the reform of certain economic public companies, the Act of 17 January 2003 on the status of the regulator of the Belgian postal and telecommunications sectors and amending the Act of 9 July 2001 laying down certain rules regarding the legal framework for electronic signatures and certification services
29/12/2010	31/12/2010	Act pertaining to various provisions

List of abbreviations used

ADSL: Asymmetric Digital Subscriber Line

AIESH: Association Intercommunale d'Électricité du Sud-Hainaut

ATM: Asynchronous Transfer Mode

BRIO: Belgacom Reference Interconnect Offer

BROBA: Belgacom Reference Offer Bitstream Access

BROTS_oLL: Belgacom Reference Offer for Terminating Segments of Leased Lines

BRUO: Belgacom Reference Unbundling Offer

CA: Council of Administration

CB: Citizens' Band

CEPT: European Conference of Postal and Telecommunications Administrations

CERP: Comité européen de réglementation postale (European Committee for Postal Regulation)

COCOM: Communications Committee

COMIXTELEC: (Commission mixte des télécommunications) joint Commission on Telecommunications

CPS: Carrier Pre-Selection

CRC: Conference of Regulators of the electronic communications sector

CSA: Conseil supérieur de l'audiovisuel (high council for audiovisual matters)

CSC: Carrier Select Code

CBPL: (Commissie voor de bescherming van de persoonlijke levenssfeer) privacy protection commission

DNS: Domain Name System

DSLAM: Digital Subscriber Line Access Multiplexer

DVB-T: Digital Video Broadcasting - Terrestrial

ECC: Electronic Communications Committee

EMC: electromagnetic compatibility

ENISA: European Network and Information Security Agency

ERGP: European Regulators Group for Postal services

ERO: European Radiocommunications Office

ESA: European Space Agency

ETSI: European Telecommunications Standard Institute

FTE: Full-time equivalent

GOC: General Operator's Certificate

GSM: Global System for Mobile communications

HAREC: Harmonised Amateur Radio Examination Certificate

HCM: Harmonised Calculation Method

IARN: International Audiotex Regulators Network

IP: Internet Protocol

IRG: Independent Regulators Group

ITU: International Telecommunication Union

LEGBAC: Limited Exploratory Group on Broadcasting to Aeronautic Compatibility

LRIC: Long-Run Incremental Cost

LTE: (3GPP) Long Term Evolution

M2M: Machine to Machine

MSS: Mobile Satellite Services

MTR: Mobile Termination Rate

NCS: National Spectrum Monitoring Department

NGN: Next Generation Network

NGA: Next Generation Access

NOT: (Nationaal Overlegplatform Telecommunicatie) national consultation forum on telecommunications

NRA: National Regulatory Authority

ROC: Restricted Operator's Certificate

RSC: Radio Spectrum Committee

RSPG: Radio Spectrum Policy Group

R&TTE: Radio and Telecommunications Terminal Equipment

SDSL: Symmetric DSL

SLIM: Simpler Legislation for the Single Market

SMP: Significant market power

SMS: Short Message Service

SRC: Short Range Certificate

TCAM: Telecommunications Conformity Assessment and Market Surveillance

T-DAB: Terrestrial Digital Audio Broadcasting

UMTS: Universal Mobile Telecommunications System

UPU: Universal Postal Union

VDSL: Very High Rate DSL

VHF: Very High Frequencies

VoIP: Voice over IP

VRM: (Vlaamse Regulator voor de Media) Flemish Media Regulator

VSA: Voice Stream Access

WAPECS: Wireless Access Policy for Electronic Communications Services

WBA: Wholesale Broadband Access

WiMAX: Worldwide interoperability for Microwave Access

WRC: World Radio Conference

WTO: World Trade Organisation

xDSL: Digital Subscriber Line

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