

BIPT



MOVING FORWARD TO A STRONG & INDEPENDENT BIPT

# ANNUAL REPORT 2011

BELGIAN INSTITUTE FOR  
POSTAL SERVICES AND  
TELECOMMUNICATIONS

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# Introduction



MOVING FORWARD TO A STRONG & INDEPENDENT BIPT





## MESSAGE FROM THE CHAIRMAN OF THE COUNCIL



The first Strategic Plan (covering the 2010-2013 period) was entitled 'Moving forward to a strong & independent BIPT'. Immediately after its publication and to meet the strategic objectives and to enable everyone to develop their skills optimally, we reorganised the BIPT services. The legislator passed the Act of 31 May 2011 pertaining to various provisions, amending the BIPT Status Act of 17 January 2003. This replaced the management plans with the Strategic Plan and the Operational Plan. Hence, 2011 was the first year of operation using the current structure.

We presented this Strategic Plan to the Chamber of Representatives. After the presentation, the members of the Chamber asked us numerous questions, which we answered in a constructive dialogue. For us, these exchanges are as enriching as they are decisive because, in a sense, they guarantee our independence, to the extent that greater independence of the regulator (which I fervently wish to see) goes hand in hand with increased transparency and greater responsibility. Therefore we take pride in communicating about and explaining our actions to Parliament or to any other interested parties.

2011 was a very busy year, and we did not wait until the Act ratifying the Strategic Plan came into force to start the implementation. Among the most striking examples, we should mention the auction of 3G and 4G licences and the regulation of the broadband markets and television broadcasting in cooperation with the community regulators.

As the development of the digital economy is key to growth and economic prosperity, the results obtained in these matters will make it possible to take an important step, enabling all citizens to reap the benefits of the digital economy.

The attention that BIPT pays to consumer interests and to social cohesion, as incorporated into its Strategic Plan, resulted in a series of actions in 2011 which are described in this report.

One of the main strengths of BIPT lies in the know-how of its staff, while the relative lack of resources of graduate level is one of the weaknesses. International comparisons with our fellow regulators are revealing: judged on that criterion, Belgium is among the back-markers. We have strongly urged the competent authorities to reinforce the number of staff with a university degree in law, economics or engineering, as they are indispensable for the creation, implementation and revision of high-quality regulation, adapted to the realities in the field and in line with BIPT's vision. A first dossier was submitted in connection with the conversion of 15 posts, but unfortunately this could not be completed in 2011 due to the government being in caretaker mode. Since its creation, BIPT has been entirely financed from its own resources from the electronic communications and postal sectors, without any government funding. In these circumstances, we are hopeful that we will be able to overcome this challenge, which primarily hinders the regulator, but in reality is detrimental to all stakeholders.



In 2011, numerous large projects were launched within BIPT. They will all bring about a change of culture, including an increased focus on results. The 2012 Operational Plan will be drafted along those lines, establishing a direct link between an objective, the specific results to be achieved, and the resources allocated for this purpose. According to the same reasoning, these major projects are also aimed at continuously improving the efficiency and administrative maturity of BIPT. The development of a new management tool illustrates this: on the basis of a solution that is well-known in the business world, BIPT has started adapting a program for electronic document management. This investment is intended to enable BIPT to provide a better service due to faster handling of cases, cost savings, improved quality and delivery of a tool for managing objectives. The overhaul of the BIPT website is being handled in the same way: while the BIPT website used to reflect the structure of the organisation, the web pages will soon be tailored to the interests of the users and their profile, because business users and individuals simply do not have the same interests.

When reading these lines and the pages that follow, you will see that, despite 2011 being a year of transition, BIPT has not been standing still. However, it still faces many challenges. In fulfilling its missions BIPT mainly depends on its staff. Their professionalism and motivation will enable BIPT to rise to those challenges and meet them head on. And a stronger BIPT will earn the respect of its interlocutors more and more each day.

I hope everyone will enjoy reading our 2011 Annual Report.



Luc Hindryckx  
*Chairman of the BIPT Council*



## MESSAGE FROM THE COUNCIL



Since 1993 BIPT has been working on establishing the market for postal services and the market for electronic communications, a sector in constant evolution. In order to meet the expectations and requirements of the stakeholders, it was natural for BIPT to embrace this evolution. The hardest part is not so much making a fresh start. First one needs to thoroughly analyse the 'as-is' situation and carefully plot the approach to move towards the 'to-be' situation, taking account of the resources available.

When the new members of the Council took up office at the end of 2009, they familiarised themselves with the BIPT officials and with the stakeholders. This enabled them to publish 'Moving forward to a Strong and Independent BIPT', BIPT's Strategic Plan for the 2010-2013 period.

By way of introduction, let us mention some examples taken from the many fronts on which BIPT operates:

- › at the level of the core strategy theme 'Management of scarce resources', considerable efforts were made to make the 3G and 4G licence auctions a success. In June, BIPT awarded the fourth 3G licence in the 2.1 GHz band to Telenet Tecteo Bidco NV/SA, and in November four licences in the 2.6 GHz band were awarded to Belgacom, Mobistar, KPN and BUCD;
- › on the numbering issue, BIPT adopted measures in 2011 in relation to machine-to-machine numbering which should enable the smooth development of this particularly innovative sector;
- › BIPT also adopted important decisions to structure the electronic communications market which fall under the core strategy theme 'Efficient regulation'. The most noteworthy examples are undoubtedly the regulation of the broadband access market (including a range of obligations imposed on Belgacom) and that of the television broadcasting market (with obligations being imposed on Telenet, Numericable and Brut  l  ). The decisions provide for important regulatory obligations which break the dominance of Belgacom and (for the first time) the cable operators, and enable alternative operators to compete effectively in triple play offers.
- › the attention BIPT pays to the interests of consumers, as set out in its Strategic Plan, took practical form in 2011 in a series of actions aimed at increasing tariff transparency: for example, that is the primary aim of a program<sup>1</sup> made available on the Internet which enables end-users to compare prices and services from the various operators, based on their consumption habits and their needs. The operators have a duty to inform consumers clearly and fully, but this is also a task that BIPT itself has to perform properly. The accessibility of electronic communications and/or postal services contributes to social cohesion, an aspect that BIPT takes very seriously. This is reflected for example in the meticulous scrutiny of the operation of the universal service mechanisms and the possible reforms that may be required to those mechanisms for the electronic communications sector.
- › at the beginning of 2011, the Court of Appeal created a substantial degree of legal certainty about BIPT regulation of MTRs by dismissing applications for suspension, which meant that further tariff reductions and evolution towards tariff symmetry could proceed unhindered in the interests of consumers.

<sup>1</sup> [www.bestetarief.be](http://www.bestetarief.be)

- › BIPT had to impose substantial fines twice in 2011: one on Telenet (amounting to EUR 250,000) because subscribers were not properly informed individually about the possibility of terminating their contract without penalty in the event of changes to the general terms and conditions, and the other on bpost (amounting to EUR 2.3 million) due to insufficient transparency and tariff discrimination between business customers and mail handlers.
- › BIPT has made progress on network integrity and security in 2011, carrying out various major actions, including a survey on mobile networks security. In the same vein, in relation to the emergency services, BIPT has been working since September 2011 to strengthen the dialogue and mutual consultation between the emergency services and the sector.

These are some examples of the changes that BIPT wanted to set in motion in the electronic communications sector, a sector where technology is eroding the traditional boundaries between networks, where the operators' strategies cannot always cope with user demand, where offers have to respond quickly to the spirit of the times in order to remain competitive, where it is of paramount importance that a strong and independent regulator should take decisions in complete transparency and objectivity, in compliance with the law, so that the public will ultimately benefit.

BIPT knows where it is heading and has informed all stakeholders about this in its Strategic Plan. BIPT is fully committed to the objectives that it has set itself.



*Axel Desmedt*

*Luc Hindryckx*

*Catherine Rutten*

*Dr. Ir. Charles Cuvelliez*





# BIPT



## FOUNDATION

The federal authorities established BIPT (the Belgian Institute for Postal Services and Telecommunications) under the Act of 21 March 1991<sup>2</sup> as a semi-governmental institution. BIPT was tasked with regulating two sectors: electronic communications (including radiocommunications) and the postal sector<sup>3</sup>. BIPT has been operational since July 1993.

The Status Act of 17 January 2003<sup>4</sup> converted BIPT into a public interest body with a statute of its own, thus ensuring its independence from the executive.

BIPT is a federal administration that performs the following tasks<sup>5</sup>:

- › it is the regulator of the electronic communications market;
- › it is the regulator of the postal services market;
- › it manages the electromagnetic radio frequency spectrum;
- › it is a media regulator in the Brussels-Capital Region.

## POWERS & RESPONSIBILITIES

Within each of its areas of competence, BIPT has a series of missions to perform, resulting directly from the Belgian and European regulatory framework. In the domain of the **electronic communications**, for example, BIPT has the task of promoting competition, contributing to the development of the internal market and safeguarding user interests.

Since 1 January 2011, the **postal sector** has also been fully liberalized. BIPT oversees the postage rates and service quality of bpost and issues licences to new entrants to the postal market.

BIPT also has the mission of overseeing the allocation of scarce resources such as **radio frequencies**, so that they are used as efficiently as possible. BIPT also 'policing the airwaves' in order to put a stop to any kind of harmful interference. In fact, BIPT exercises oversight 1/ of the electromagnetic spectrum, 2/ of the operators and 3/ of equipment (the presence on the market of non-compliant equipment hinders competition, impairs electromagnetic compatibility and can lead to interference with other devices that are properly authorized, thus endangering the safety of the end-users).

Finally, BIPT monitors compliance by the operators in the bilingual Brussels-Capital Region with the specific regulation on **radio and television broadcasting**, where the activities of the broadcaster do not fall specifically within the competence of the French Community or the Flemish Community (matters not regulated jointly by both Communities).

Every year, BIPT is given additional powers and responsibilities, such as the secretariat of the Ethics Commission, additional powers on network security as a consequence of the full liberalization of the postal market and the transposition of telecom directives. As a result of ever-increasing technological complexity the IT and telecommunications sectors are becoming more and more interconnected. BIPT therefore provides a unique expertise to the federal authorities in the field of telecommunications, and has a privileged relationship with the telecom operators. In that respect, it plays the role of facilitator with the sector on behalf of the authorities and it raises awareness among all stakeholders about the importance of participating in this quest for dialogue.

<sup>2</sup> Act of 21 March 1991 on the reform of certain public economic undertakings.  
<sup>3</sup> In 2007 that scope was extended to broadcasting in Brussels, insofar as this falls within the power of the Federal State.  
<sup>4</sup> Act of 17 January 2003 on the status of the regulator of the Belgian postal and telecommunications sectors.  
<sup>5</sup> BIPT also acts as a Belgian administration with various tasks.

## INSTRUMENTS

To achieve these objectives within each of its areas of competence, BIPT has various instruments at its disposal. Example:

- › BIPT takes **administrative decisions** which may impose obligations on companies;
- › BIPT can impose **administrative sanctions**;
- › BIPT issues **opinions** on its own initiative or at the request of the Minister;
- › BIPT **monitors** compliance with the sector-specific legislation and can launch investigations by requesting any useful information or organizing public consultation;
- › BIPT can act as a **mediator** in case of disputes.

## SUPERVISION

Although BIPT has an independent status, the **legislator** incorporated a large number of control mechanisms. Independence does not mean that BIPT is unaccountable for its activities. First of all, every three years the BIPT Council has to draw up a three-year Strategic Plan. This Strategic Plan is presented for public consultation for a period of two weeks. The completed Strategic Plan is presented to the Chamber of Representatives.

The Council then draws up an annual Operational Plan in line with the Strategic Plan.

The Council also provides the government with an annual report on its activities and the evolution of the market for postal services and telecommunications. This annual report includes, among other things, a financial report and annual accounts of the funds for the universal service in postal and telecommunications services.

In addition to monitoring by the legislature, the **executive** also exercises oversight, including the Budget and Finance Ministers overseeing BIPT's draft budget. Since its creation, BIPT has been entirely financed from its own resources, primarily coming from the regulated sectors (mainly the fees for using the radio spectrum), without any government funding. Nevertheless, the BIPT budget has to be approved by the Budget and Finance Ministers.

Finally, BIPT is monitored by the **judiciary**, namely by the Brussels Court of Appeal, acting as in summary proceedings to hear appeals against BIPT decisions. In principle, the Court of Appeal does not suspend decisions in pending cases, but can set aside BIPT decisions *ex tunc*.





## BIPT VALUES

The values constitute BIPT's internal frame of reference. They guide the actions of the BIPT's officials and help create a shared vision of its aims. They contribute directly to BIPT's good governance and ethics. Below, a number of officials illustrate these values based on their own experiences.



### INDEPENDENCE

*"In my opinion, the publication of the articles of association of BIPT in 2003 was a key moment in the history of the regulator. The independence that is defined in those articles of association is a prerequisite for carrying out its various missions successfully. Without that independence, BIPT would be unable to regulate markets and offer consumers the right protection. The majority of the population is not sufficiently familiar with our activities, and wrongly associates us with the politicians or with the historic operator. I think our independence, which is expressed in what we do, should be better explained to the outside world."*

Isabelle Demeyer, Correspondent, Legal Department.



### TRANSPARENCY

*"I think that the prime requirement for working in a smooth and efficient way is an open and inclusive approach to handling a case. Transparency is not only necessary during the handling of a case, but even before that stage. It provides prior insight into the positions of all stakeholders, both internal and external. In my experience, this is essential for the smooth handling of certain issues. It is also very important to provide regular feedback to the stakeholders during the decision-making process. Sometimes this interaction and improved information flow is already enough to solve certain issues and usually everything happens much faster too!"*

Bram Neeskens, Consultant, Legal Department.



### KNOW-HOW

*"Someone once said: 'An expert is someone who knows more and more about less and less.' BIPT has the privilege of having an impressive number of experts among its teams, who fortunately don't know more and more about less and less, but more and more about more and more (no doubt because they have to work on a large number of cases)! Nevertheless, the challenge of delivering quality on a daily basis requires recognition of other people's know-how and the limitations of your own expertise. This presupposes genuine teamwork and therefore substantial mutual trust. This is even more the case within the interdisciplinary teams that work at BIPT: mutual understanding between specialists from various disciplines is also a major challenge (which sometimes requires a touch of humour to produce a successful outcome...)"*

Laurence Mourlon-Beernaert, Senior Consultant, Legal Department.



### EMPOWERMENT

*"In 2011, I was responsible for the quality control of bpost in the field. To accomplish this task, there was need for cooperation between the various BIPT pools. This collaboration was a success given that dozens of employees lived up to their responsibilities by doing their job correctly and on time. During this project I was able to put my newly acquired knowledge on project management into practice. Working in a more project-related way resulted in more efficient cooperation and empowerment of the BIPT staff."*

Joost Callaert, Senior Consultant, Postal Market Pool.



### DIALOGUE

*"As a translator I like to refer to the story of the Tower of Babel, the tower which was supposed to reach up to heaven, but never did so because the language of the builders was confused. When people don't understand each other, they don't achieve anything together. What is great about my job is that I can play an important role in this respect: to ensure that people understand each other, that they can dialogue with each other. The stereotypical image of the hermit who hides away behind his dictionaries could not be further from the truth. A translator is provided with building blocks from all corners of the organisation, and translates them so that not only all stakeholders can participate in building the tower, but thanks to the cross-disciplinary support he provides to all departments, the translator also has a good overview of the whole construction site. An overview – and understanding – that he can convey through dialogue to the entire organisation and finally beyond the boundaries of that organisation."*

Veerle Geirnaert, Consultant, Translation Department.



### SERVICE TO SOCIETY

*"A service is dependent on someone who works on a case or who helps someone. Two synonyms of this word are dear to my heart: 'help' and 'cooperation', two words which I believe to be key in the workplace. A service also means taking your responsibilities seriously, creating trust but also demonstrating transparency. 'Society' can mean both consumers and operators. One of our tasks is be aware of all expectations (legal, technical or tariff-related) and to find ways to meet them to the extent possible."*

Françoise Gilles, Correspondent, Frequencies Department.



### COHERENCE

*"As far as I am concerned, coherence is one of the most important values. It is closely related to the purpose of BIPT: to improve competition in the sectors it regulates. This competition can only occur if the operator can produce an accurate assessment of the regulatory impact of the consequences of their strategic choices. For this estimate, it is important that BIPT always uses the same legal ground and the same considerations in the same circumstances. In this way a coherent policy leads to a transparent policy, which is also a value for BIPT.*

*Leadership derives from coherent behaviour: the sector does not believe that BIPT turns with the wind and has confidence in the judgment that BIPT has formed to the best of its ability. Therefore, I think that coherence is one of the fundamental values of BIPT."*

Thomas Gille, Engineer/Consultant Telecom Market & Media Pool.







## THE COUNCIL

Luc Hindryckx, Catherine Rutten, Charles Cuvellez and Axel Desmedt were appointed on 9 October 2009 by Royal Decree as Council Chairman and Council Members respectively. The members of the BIPT Council took up office on 23 November 2009, with Catherine Rutten starting her second term. In line with the 2010-2013 Strategic Plan, they created five pools based on the strategic objectives of BIPT. The structure is complemented by support services that meet cross-disciplinary requirements (Legal, HR, IT, Registry, Translation, International Relations, Communications, Procurement & Logistics, and Finance).



### Luc Hindryckx, Council Chairman, is in charge of the following departments:

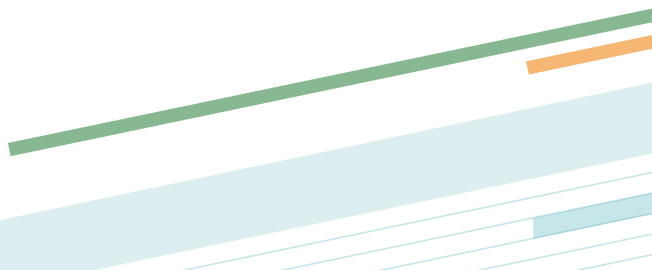
- › the **Registry**, which ensures the smooth operation of the Council and BIPT as a whole;
- › the **Communications** Department, including statistical information;
- › the **International Relations** Department: coordination of activities relating to BEREC (Body of European Regulators for Electronic 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 (revenue and expenditure management);
- › 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, the Operational Plan and the Annual Report, 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 consumer protection and information, relations with consumer organisations and the Offices of the Ombudsman, price comparer, price barometer ([www.barometredesprix.be](http://www.barometredesprix.be)), economic and legal aspects of universal service obligations and management contract of Belgacom, monitoring the universal service, operational management of the granting of social tariffs, management of the numbering plan, number portability, number usage; network neutrality, Ethics Commission for Telecommunications ([www.telethicom.be](http://www.telethicom.be));
- › the **Postal Market** Department: strategic, legal and economic aspects, monitoring regulatory compliance (authorisations, universal service, quality standards, tariffs) and the management contract of bpost, statistical information;
- › the **Purchasing & Logistics** Department: purchasing and equipment department.

Mrs Rutten also manages the procedures for mediation between operators.



**Dr. Ir. Charles Cuvellez, Council Member, is in charge of the following departments:**

- › the **Telecom Market & Media** Pool: all economic and technical aspects regarding telecommunications, including the tariffs of the public service (market analyses, SMP (significant market power), tariffs, cost models, calculation of universal service costs), access and interconnection (reference offers BRIO, BROBA, BRUO, BROTSOLL);
- › the **Monitoring** Pool: 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, network security, monitoring compliance of equipment and notifications with the R&TTE Directive (radio and telecommunications terminal equipment), Rainwat Arrangement;
- › the **IT** Department: management of IT projects, hardware and software, management of internal and external network (intranet and extranet) development and implementation of software solutions.

**Axel Desmedt, Council Member, is in charge of the following departments:**

- › the **Assignments** Pool: strategy and coordination of radio spectrum management (internationally and nationally), international radiocommunications organisations, operational management of the frequency plan, (international) standardisation, issuing of radiocommunications licences (including organisation of auctions) and of voice telephony and fixed network licences, declarations of telecommunications services, organisation of exams;
- › the **Legal** Department: regulatory framework in the field of telecommunications and radiocommunications, legal aspects of the regulation of electronic communications markets, general legal support to other departments, dispute management, mediation, international treaties;
- › the **HR** Department: management of BIPT personnel, recruitment, sector committee, life-long learning.







# Main regulatory achievements in 2011

# 2

MOVING FORWARD TO A STRONG & INDEPENDENT BIPT

# 1. REGULATION OF THE BROADBAND INTERNET AND BROADCASTING MARKETS



## EFFECTIVE COMPETITION IN THE BROADCASTING MARKET WITH THE OPENING-UP OF THE CABLE NETWORKS...

### PROJECT CONTINUED IN 2011 BUT NOT YET COMPLETED

Reference to the Strategic Plan: Efficient regulation, priorities: Level playing field, competition in terms of infrastructure and services in the context of convergence.

On 1 July 2011 the CRC<sup>6</sup>, on which BIPT and the media regulators have a seat, adopted the decision on the market analysis of the broadcasting market. The various cable operators in the Brussels-Capital Region (Telenet, Numericable and Brutélé) are obliged by this decision to open up their network to alternative operators. This should enable the latter to compete on an equal footing with the cable operators, which should boost competition in the broadcasting market and will lead to benefits in terms of price and an enhanced offering for the end-consumer.

The market analysis imposes three obligations. Cable operators will have to offer resale of the analogue channel package, enabling alternative operators to offer analogue TV to the end-customer. In addition, these other operators will be able to use the cable network to transmit digital TV signals and thus launch digital TV products. Finally, cable operators are also required to offer resale of broadband Internet. This is necessary so that alternative operators can fully compete in the broadcasting market. Indeed, broadcasting products are offered increasingly more often with interactive applications that require an Internet connection. Broadcasting products are also increasingly being sold in so-called multiplay packages, together with other services such as broadband Internet and fixed telephony.

In the market analysis, the operators Telenet, Brutélé and Numericable are designated as having significant market power. Three obligations have been imposed on all of them:

- › they have to introduce a resale offer for analogue TV channels;
- › they have to allow digital transmission of TV signals via their networks for other operators;
- › they have to introduce a resale offer for broadband Internet.

The decision taken on 1 July 2011 results from an extensive consultation process, in which consultations were held sequentially with the sector, the Competition Authority, the community regulators and the European Commission. Following the adoption of the decision by the CRC, the implementation phase started. In this phase, in collaboration with the cable operators, the technical conditions of the various obligations are being worked out in more detail.

## ... AND RENEWED REGULATION OF THE BROADBAND INTERNET MARKETS.

On 1 July 2011 the CRC also adopted the decision on the market analysis of the broadband Internet markets. Belgacom was identified in this analysis as the only operator with significant market power in the market for unbundled access to the local loop ('market 4'<sup>7</sup>) and the wholesale broadband market ('market 5'<sup>8</sup>). As in a previous analysis of these markets in 2008, Belgacom is required by this

<sup>6</sup> Conference of Regulators of the electronic communications sector.

<sup>7</sup> (Physical) access to network infrastructure at wholesale level (including shared or fully unbundled access) at a fixed location.

<sup>8</sup> Market for wholesale broadband access.

market decision to provide access for alternative players with regard to unbundling the local loop and bitstream access. Alternative operators are thus able to offer broadband Internet products to end-consumers via the Belgacom network.

One of the new features in comparison with the market analysis dating from 2008 is the compulsory offering of the 'multicast' functionality by Belgacom to operators who operate via their network. This should allow alternative operators to offer their customers multimedia applications, such as transmission of TV signals over the Belgacom network.

This market analysis also showed indeed that an increasing number of end-users are buying broadband services in a bundle (multiple play products). Operators that provide services via the Belgacom network can henceforth offer attractive multiplay packages including a TV component.

BIPT is convinced that this new obligation will intensify competition on the market. Just as in the broadcasting market, the shift towards multiplay is having a major impact on the broadband Internet market. More and more customers are buying their broadband subscription in a bundle that includes television. Operators operating on the Belgacom network previously only had the possibility of offering television via local unbundling. Due to technical developments, however, we see that local unbundling will have limited economic viability. Therefore, it was necessary to enable operators operating via bitstream access to use multicast or an alternative to multicast with similar functionality. This will enable them to offer television products to end-customers.

On 19 September 2011, Belgacom proposed an offer for access to their own IPTV platform. This would be an alternative solution to the multicast functionality. This offer was submitted to BIPT for approval and was subsequently examined.

## 2. NGA/NGN COST MODEL



**PROJECT CONTINUED  
IN 2011 BUT NOT YET  
COMPLETED**

Reference to the Strategic Plan: Efficient regulation, priorities: Level playing field, competition in terms of infrastructure and services in the context of convergence.

*Next Generation Network* (NGN) is a broad term that refers to a new generation of high-speed telecommunications networks on which all services (voice, data, video...) can be managed via a single network. The implementation of these networks has been under way for several years now and is characterized by the roll-out of technologies with a fibre optic component such as VDSL, VDSL2, fiber-to-the-home... NGA (*Next Generation Access*) refers to the way in which access to these networks is implemented, including how alternative operators obtain access to these networks.

The NGN/NGA cost model aims to determine the operating costs of an NGN/NGA network and derive tariffs for the various regulated wholesale offers from Belgacom where cost orientation has been imposed. These offers enable alternative operators to deliver services to end-consumers via the Belgacom network. This specifically concerns the wholesale offers for fixed interconnection on the market for fixed telephony (BRIO), local loop unbundling (BRUO), leased lines and wholesale broadband access (BROBA and WBA/VDSL2). The cost model will also be used to calculate fixed call termination rates (FTR) that apply to all fixed network operators.



At the end of 2011, BIPT launched a public consultation on this. It is important that tariff conditions should not discriminate against an alternative operator compared with other market players. Of course, the tariffs have to ensure that Belgacom receives a fair remuneration for the use of its network by alternative operators. On the other hand, it should also be ensured that the tariffs used offer alternative players the opportunity to compete effectively in the market. Only in this way will other players be able to acquire and retain customers.

The European Commission also carried out a consultation on the methodology used by regulators to map the costs of NGN networks. BIPT kept a close eye on this consultation, which ended on 28 November 2011, in order to analyse best practices abroad and take them into account in the cost model.

### 3. IMPROVED PROCESSES, LOWER TARIFFS, IMPLEMENTATION OF UPGRADED NETWORKS



**PROJECT CONTINUED  
IN 2011 BUT NOT YET  
COMPLETED**

Reference to the Strategic Plan: Efficient regulation, priority: Operational processes.

#### ELIMINATION OF BOTTLENECKS IN BELGACOM'S OPERATIONAL WHOLESALE PROCESSES

In 2009, BIPT commissioned an audit to examine Belgacom's operational wholesale processes. The aim was to identify issues in the provision of wholesale services to other operators by Belgacom, as outlined in the BIPT communication of 8 February 2011<sup>9</sup>. It is vital that bottlenecks in operational processes are eliminated as they can impair the services that alternative operators are able to provide to their end-customers.

BIPT took further specific actions in 2011 to remove bottlenecks in the operational processes.

- › On 11 August 2011 BIPT approved a decision concerning the BRxx reference offers. Here, however, Belgacom was also required to make additional changes, including resolving issues related to the operational processes. The reference offers on the broadband Internet markets are essential to safeguard competition in the market, since they contain the conditions on which alternative operators buy wholesale services from Belgacom. The reference offers have to comply with the obligations imposed by BIPT in the analysis of the broadband Internet markets and the principles agreed by the working groups on operational processes.
- › Working groups have been established between Belgacom, alternative operators and BIPT to identify operational issues and tackle them in a constructive way. These working groups are mainly focused on dialogue. BIPT basically only intervenes as a facilitator and observer, provided that the parties cooperate constructively on a swift resolution of the problems identified. If a solution is not reached, BIPT can always intervene through coercive measures on the basis of the prevailing regulatory framework and the remedies specified therein. The main topics covered in 2011 are: the ISLAs<sup>10</sup> in the context of the process of repairing lines, the tools used during the eligibility phase, cancellation of orders at the customer's request, orders in the queue (pending), the performance

<sup>9</sup> <http://www.bipt.be/ShowDoc.aspx?objectID=3230&lang=en>.

of tests by the alternative operators and their results, and issues associated with the billing process. BIPT has established an interactive platform for the preparation of the working groups. When these meet, a lot of preparatory work is already done, and the meeting formalises the progress made via that electronic consultation platform.

- › At the end of 2011, BIPT also launched a consultation on the 'Open Calendar' and 'Certified Technician' projects. These are both aimed at facilitating installation of an order at the premises of an end-customer of an alternative operator, by giving the alternative operator more flexibility in the choice of technician and the time of installation.

#### FIXED TELEPHONY: LOWER TERMINATION RATES AND DEREGULATION OF THE TRANSIT MARKET

**PROJECT COMPLETED  
IN 2011**

Reference to the Strategic Plan: Efficient regulation, priority: Proportionality.

In the area of fixed telephony, a number of important steps were taken in 2011 in the market for call termination. This is a service that providers with a fixed telephony network provide to other operators in order to route a call to a number that is (in)directly connected via their own network. In a draft decision, BIPT proposed, according to the European recommendation, to make the termination rates the same for all operators, and base them on incremental costs. This will further decrease the end-user prices for fixed telephony. On the other hand, certain remedies which were no longer deemed necessary, given the fall in tariffs based on incremental costs, were discontinued (i.e. accounting separation, certain aspects of non-discrimination). Following the public consultation<sup>11</sup> (7 September to 5 October 2011) and the opinion of the Competition Authority (21 November 2011), the notification of the draft decision on 30 December 2011 to the European Commission means that we have now entered the final straight leading to a final decision. This decision has resulted in the immediate disappearance of the asymmetry among the operators concerning their call termination rates. For the glide path for the reduction of the future identical termination rates, the NGN/NGA model will be applied.

Also in the field of fixed telephony, it was decided to no longer regulate transit services. Transit services are used when an operator has no direct interconnection with another operator. Calls between these operators are transmitted via a third operator, the transit operator. In 2011, the transit market was completely deregulated. Despite the existence of a number of access barriers, BIPT took the view that the market was developing towards a situation that suggested effective competition. In particular, the market share of Belgacom has been reduced, and there are more direct interconnections between operators other than Belgacom, which indicates that the call transit service from Belgacom is not inevitable. In this regard, BIPT is subscribing to its objective of discontinuing unnecessary regulation as soon as possible.



<sup>10</sup> Improved Service Level Agreements.  
<sup>11</sup> <http://www.bipt.be/ShowDoc.aspx?objectID=3571&lang=en>



## ADAPTATION OF THE BELGACOM NETWORK ('MOVE TO ALL IP') AND THE CLOSURE OF LEXS: CONSTANT MONITORING

### PROJECT CONTINUED IN 2011 BUT NOT YET COMPLETED

Reference to the Strategic Plan: Efficient regulation, priority: Proactivity.

In the context of a migration to a new generation network Belgacom is closing a number of telephone exchanges and the services that the OLOs<sup>12</sup> provide from these exchanges are being migrated. These migrations generate additional costs, both for the OLOs and for Belgacom.

BIPT took the initiative of encouraging the OLOs and Belgacom to reach a mutual understanding of the costs and operational problems associated with this closure and to make recommendations. The closing of the first LEX in 2012 will be an opportunity to verify the validity of these recommendations in the field.

## OTHER ACHIEVEMENTS

### PROJECT COMPLETED IN 2011

Reference to the Strategic Plan: Efficient regulation, priority: Level playing field.

- › **Mobile call termination:** On 4 March 2011 a draft decision was presented for consultation, to complement the market analysis of the mobile call termination market. In this market analysis, dated 29 June 2010, tariffs were established for mobile call termination rates. The draft decision of 4 March 2011 which was the subject of the consultation complements the decision of 29 June 2010 for Telenet, which informed BIPT that henceforth, in Belgium it will act as a fully-fledged mobile virtual network operator (full MVNO<sup>13</sup>). By supplementing the basic decision on market 7, this draft decision would render the regulatory mechanism and timeframe that were laid down in the basic decision for the three mobile network operators (MNOs) also applicable to Telenet. An analysis of this consultation and the appropriateness of taking this supplementary draft decision is currently under way.
- › **VDSL Consumer Equipment:** On 27 November 2011 a decision was adopted concerning the interoperability of Customer Premises Equipment (CPE) in the context of the WBA VDSL2 offer. This decision enables alternative operators to use their own equipment (including modem) when they use Belgacom's WBA VDSL 2 offer. This gives alternative operators more opportunities to set themselves apart, creating increased market dynamism.

<sup>12</sup> Other Licensed Operator.

<sup>13</sup> Mobile Virtual Network Operator.

## 4. 3G SPECTRUM AUCTION



### PROJECT COMPLETED IN 2011

Reference to the Strategic Plan: Management of scarce resources, priority: Spectrum.

In 2011 the remaining 3G spectrum was auctioned. BIPT organized this auction via an electronic Internet platform and was assisted by reputable external consultants (Analysys Mason, DotEcon, Hogan Lovells and Philippe&Partners).

In accordance with the 3G Royal Decree<sup>14</sup> a 2-stage auction was set up. In a first stage, the remaining free FDD<sup>15</sup> spectrum in the 2.1 GHz band (15 MHz duplex) was made available for a potential newcomer. If not all the spectrum was acquired by a newcomer, in a second stage, spectrum would be auctioned among all interested parties, including the existing 3G operators. BIPT also launched a website specifically developed for this purpose ([www.auction2011.be](http://www.auction2011.be)) to allow interested parties to consult all relevant documents in three languages.

In early 2011, a 3G memorandum was published on this website. This memorandum contained all useful and relevant information that a candidate needed to have, and a timetable that would have to be followed. On 4 March 2011 the BIPT Council decided to launch a call for applications. One application was received on 29 April 2011 (Telenet Tecteo Bidco NV/SA). After examination this application was deemed admissible by the Council. Subsequently, on 27 June 2011, the applicant submitted a bid of EUR 71,525,430.92 for the complete 15 MHz duplex band at 2.1 GHz. This led to the granting of user rights for the band 1950.1–1964.9/2140.1–2154.9 MHz for the period 15 July 2011 to 15 March 2021. In accordance with Article 30, § 1/3, second paragraph of the Act of 13 June 2005, the beneficiary opted in good time to pay the one-off fee in annual instalments.

Pursuant to Article 64, second paragraph of the Royal Decree of 18 January 2001, the beneficiary informed BIPT in good time that it wanted to avail itself of the possibility of being assigned 4.8 MHz duplex in the bands 880–915 MHz and 925–960 MHz, as well as 10 MHz duplex in the 1800 MHz band. The bands at 900 and 1800 MHz will be made available as from 27 November 2015. A one-off fee of EUR 31,507,311.10 is payable for this.

It is assumed that this fourth 3G operator will start offering commercial services by 15 January 2013 (i.e. 18 months after the date of notification of the licence).



<sup>14</sup> Royal Decree of 18 January 2001 laying down the specifications and the procedure for granting licences for third-generation mobile telecommunications systems.

<sup>15</sup> Frequency Division Duplex.

## 5. 4G SPECTRUM AUCTION



### PROJECT COMPLETED IN 2011

Reference to the Strategic Plan: Management of scarce resources, priority: Spectrum.

In 2011 BIPT organized the auction of the 2.6 GHz band (the spectrum between 2500 MHz and 2690 MHz). This spectrum can be used to provide high-speed mobile Internet (the so-called '4G' services) offered on 4G technologies like LTE<sup>16</sup> or WiMAX.

For the 4G auction, roughly the same methodology was used as for the 3G auction: publication of a 4G memorandum, call for applications, examination of admissibility and a subsequent auction via an electronic Internet platform. The 2.6 GHz band would be allocated nationally in accordance with the frequency plan harmonized on a European basis: 70 MHz FDD spectrum and 45 MHz TDD<sup>17</sup> spectrum were offered for auction.

On 18 May 2011 the BIPT Council decided to launch a call for applications. On 14 October 2011 BIPT received five applications to participate in the 4G auction: Belgacom NV/SA, BUCD BVBA/SPRL, Craig Wireless Belgium Inc., KPN Group Belgium NV/SA and Mobistar NV/SA. The admissibility of the candidates was confirmed by the Council. Given that there were at least four candidates for the FDD spectrum, it was decided that the auction would be organised in accordance with Article 4, § 1, of the 4G Royal Decree (namely that the FDD band is divided into two x 5 MHz duplex and four x 15 MHz duplex).

On 17 November 2011 a bidding seminar was held at the premises of BIPT to familiarise the candidates with the software to be used, followed by a test auction on 22 November 2011. On 28 November 2011 the auction started. In total, 155 MHz were successfully auctioned, bringing in a total revenue of EUR 77,790,000. Craig Wireless Belgium Inc. withdrew during the auction in the prescribed manner and therefore acquired no spectrum. The result of the auction, broken down by candidate, is as follows:

Bidder	Frequencies	Bid made in EUR
Belgacom NV/SA	2500-2520 / 2620-2640 MHz (2 X 20 MHz)	20.220.000
BUCD BVBA/SPRL	2575-2620 MHz (45 MHz)	22.510.000
Craig Wireless Belgium Inc.	-	-
KPN Group Belgium NV/SA	2535-2550 / 2655-2670 MHz (2 X 15 MHz)	15.040.000
Mobistar NV/SA	2550-2570 / 2670-2690 MHz (2 X 20 MHz)	20.020.000

The licences will be granted from 1 July 2012 for a 15-year term.

<sup>16</sup> 3GPP Long Term Evolution.

<sup>17</sup> Time Division Duplex.

## 6. COMPATIBILITY STUDY BETWEEN LTE SYSTEMS IN THE 2500–2690 MHz BAND AND PRIMARY AERONAUTICAL RADARS IN THE 2700–2900 MHz BAND



**PROJECT COMPLETED  
IN 2011**

Reference to the Strategic Plan: Management of scarce resources, priority: Spectrum.

Already in 2010, it had become clear that compatibility issues would arise between the LTE/WiMAX networks in the 2500–2690 MHz band and the primary aeronautical radars in the 2700–2900 MHz band.

In order to clarify in good time the conditions that applicant operators for the 4G auction would have to meet and to allow them to make a correct estimate of the resulting costs, BIPT decided to study these issues in detail and impose the necessary measures before the candidates submitted their bid.

After a study was carried out<sup>18</sup> in cooperation with Intersoft Electronics NV/SA, Belgocontrol and the Defence Ministry, BIPT adopted a decision on 3 October 2011<sup>19</sup> with measures to be imposed in order to guarantee coexistence between the primary aeronautical radars and the LTE/WiMAX networks. BIPT attaches a great deal of importance to the practical feasibility of these conditions, both in technical and financial terms.

The radars in the 2700–2900 MHz band will be adapted in order to comply with the conditions imposed in the BIPT decision (installation of filters, change of frequency). These adaptations require some time: it will take until mid-2013 before all radars will have been adapted. To meet the concerns of the candidate operators for whom the 2500–2690 MHz band will be virtually useless in certain parts of the country, without incurring excessive costs, BIPT also took a decision on 3 October 2011<sup>20</sup> to postpone the start of the period of validity of the user rights to 1 July 2012. This measure represents a financial saving on the one-off fee for operators.

Following the first study conducted by Intersoft Electronics NV/SA, BIPT carried out, in collaboration with the same firm, a measurement campaign on a number of representative Belgian aeronautical radars, in order to measure the spectral emissions from these radars in the LTE band.



<sup>18</sup> [http://www.auction2011.be/images/stories/documents/ie\\_test\\_report.pdf](http://www.auction2011.be/images/stories/documents/ie_test_report.pdf).  
<sup>19</sup> [http://www.auction2011.be/images/stories/documents/decision\\_radar\\_en.pdf](http://www.auction2011.be/images/stories/documents/decision_radar_en.pdf).  
<sup>20</sup> [http://www.auction2011.be/images/stories/documents/decision\\_period\\_en.pdf](http://www.auction2011.be/images/stories/documents/decision_period_en.pdf).

## 7. DECISION ON THE ALLOCATION OF SPECTRUM AND TECHNOLOGY NEUTRALITY IN THE BANDS OF THE 2G/3G MOBILE SERVICES



### PROJECT COMPLETED IN 2011

Reference to the Strategic Plan: Management of scarce resources, priority: Spectrum.

A decision<sup>21</sup> by the European Commission imposes the obligation on Member States to allow the introduction of LTE and WiMAX technology in the 900 MHz and 1800 MHz bands by 31 December 2011. This decision also sets technical parameters, which are determined based on studies by the CEPT, allowing the coexistence of GSM/EDGE, UMTS/HSPA, LTE and WiMAX in the 900 MHz and 1800 MHz frequency bands.

BIPT adopted a decision in 2011<sup>22</sup> aimed at transposing the European Commission decision in Belgium. That decision allows the 3G operators to use UMTS and LTE technologies in the 900 MHz and 1800 MHz bands as well as in the 2 GHz band.

The spectrum was not optimally allocated between the various mobile operators in the 1800 MHz band. BIPT therefore adopted a decision in 2011<sup>23</sup> to allocate spectrum in the 1800 MHz band differently. This decision provides for the allocation of spectrum among the various mobile operators until 26 November 2015. Another decision will have to be taken later about the allocation of spectrum between 27 November 2015 and 15 March 2021. The date of 27 November 2015 corresponds to the date when Telenet Tecteo Bidco NV/SA (the fourth 3G operator) will be able to acquire spectrum in the 900 MHz and 1800 MHz frequency bands.

<sup>21</sup> Commission Implementing Decision of 18 April 2011 amending Decision 2009/766/EC on the harmonisation of the 900 MHz and 1800 MHz frequency bands for terrestrial systems capable of providing pan-European electronic communications services in the Community (2011/251/EU).

<sup>22</sup> Decision of the BIPT Council of 16 November 2011 concerning the use of UMTS and LTE technologies in the 900 MHz, 1800 MHz and 2 GHz bands.

<sup>23</sup> Decision of the BIPT Council of 16 November 2011 concerning the allocation of spectrum in the 900 MHz, 1800 MHz and 2 GHz bands.

## 8. RELEASE OF THE 800 MHz BAND



**PROJECT CONTINUED  
IN 2011 BUT NOT YET  
COMPLETED**

Reference to the Strategic Plan: Management of scarce resources, priority: Spectrum.

The decision of the European Parliament and of the Council establishing a multi-annual radio spectrum policy programme aims to make the 790–862 MHz band available for electronic communications services in the European Union. This decision will compel the Member States to introduce a licensing process by 1 January 2013 to enable the 790–862 MHz to be used. Although this decision was not completed by the end of 2011, it had been expected for many years.

Because the 790–862 MHz frequency band has been identified for wireless broadband services, it will no longer be able to be used for terrestrial digital TV. The identification of this band has created gaps in the 7 Belgian DVB-T coverages obtained during the 2006 Regional Radiocommunication Conference in Geneva.

Numerous bilateral or multilateral coordination meetings have been held with neighbouring countries to reconstruct the coverages lost due to the 790–862 MHz band being destined for wireless broadband services. The initial aim was to reconstitute at least 6 coverages everywhere. The meetings have not yielded a satisfactory solution for Belgium so far.

Because broadcasting in Belgium falls within the brief of the Communities, the three Communities are stakeholders in these coordination meetings.

## 9. INFRINGEMENT PROCEEDINGS AGAINST KPN GROUP BELGIUM CONCERNING 3G COVERAGE OBLIGATIONS



**PROJECT CONTINUED  
IN 2011 BUT NOT YET  
COMPLETED**

Reference to the Strategic Plan: Targeted checks, priority: Fulfillment of obligations.

The Royal Decree of 18 January 2001 laying down the specifications and the procedure for granting licences for third-generation mobile telecommunications systems (hereinafter the '3G Royal Decree') stipulates that holders of a 3G licence are obliged to achieve minimum coverage requirements for the 3G services offered within a specified time period. Article 3, § 1, imposes the following coverage percentages: 30% on 1 January 2006, 40% on 1 January 2007, 50% on 1 January 2008 and a target standard of 85% at the end of the eighth year following the date of notification of the licence.



The holders of a 3G licence are subject to an obligation of result of 50% coverage of the population in Belgium, which means that this percentage should be achieved in any case, and on the other hand, a target standard of 85% coverage of the population also applies. The target standard refers in this case, according to the report to the King accompanying the 3G Royal Decree, to an obligation of means, which implies that the necessary efforts have to be made with a view to achieving this desired result.

BIPT conducted targeted checks in the field between 12 February and 4 April 2011 to determine whether the holders of a 3G licence had met their coverage obligations. For this purpose, 600 measurements were performed. These measurements showed that Belgacom and Mobistar both achieved the result of 50% and the target standard of 85%. KPN achieved the coverage of 50% but not that of 85%. BIPT also stated that KPN had not made enough effort to achieve the 85% target standard. These findings were in line with what had previously been published by KPN in the press.

BIPT set out the following points in a reasoned letter of 1 July 2011 to KPN:

- a) KPN does not achieve the coverage rate of 85%;
- b) the coverage percentage should be achieved using UMTS technology;
- c) KPN has not made enough effort to achieve the required coverage percentage using UMTS technology.

KPN replied with a letter dated 29 July 2011. However, this letter did not contain enough convincing arguments to show that KPN did meet its coverage obligations. Subsequently, BIPT sent KPN a draft decision imposing an administrative fine, pursuant to Article 21/1 of the Act of 17 January 2003 on the status of the regulator of the Belgian postal and telecommunications sectors. This was done via the decision of the BIPT Council of 3 November 2011 concerning the imposition of a deadline for KPN Group Belgium to end its non-compliance with Article 3, § 1, of the 3G Royal Decree. The decision constituted notice of default in respect of KPN. It stated that given the fact that, on the one hand, KPN failed to achieve the result of 85% coverage, and on the other hand, had not made enough effort to reach this coverage standard, KPN was deemed to have infringed Article 3, § 1, of the 3G Royal Decree. KPN had a maximum period of four months after receipt of the decision to put an end to the infringement. If KPN failed to put an end to the infringement, BIPT could impose an administrative fine pursuant to Article 21/1, § 3, of the Act of 17 January 2003. This decision was notified to KPN in a letter dated 7 November 2011. On 9 November 2011, KPN received the BIPT decision. So KPN had until 9 March 2012 to remedy the situation.

## 10. COMPLIANCE WITH POSTAL REGULATION



**PROJECT COMPLETED  
IN 2011**

Reference to the Strategic Plan: Efficient regulation, priority: Level playing field.

On 20 July 2011 BIPT took a decision on the conventional tariffs of bpost for the year 2010: it imposed a fine of EUR 2.3 million on the company, for giving preferential tariff treatment to its corporate customers compared with other players in the postal market and applying a pricing policy that lacked transparency. Now, one year after the market was fully opened up, it was important to establish healthy competition and combat discriminatory practices.

The discrimination resided primarily in the fact that, unlike the discounts allowed to business customers, the trade discounts granted to mail handlers were not based on the total volumes passed on to bpost but only per sender, i.e. based on the individual volumes of the different senders. The mail handlers could therefore not benefit at all from combining the volumes of different senders. BIPT also found that bpost allowed bigger discounts depending on whether or not mail handlers passed on their individual customer information to bpost. A discriminatory application of discounts by bpost is detrimental to customers and to the development of competition in the postal sector. Mail handlers play an important role as potential new entrants to the postal market. Their presence in the market and the consolidation of postal volumes that they provide allows senders to obtain lower rates and enjoy a specific service.

Moreover, transparency in the tariff policy was found inadequate. For example, bpost did not notify all discounts to business customers and to the mail handlers, and discounts were not publicly available on its website.

## 11. CONSUMERS: A STRATEGIC CONCERN FOR BIPT



**PROJECT CONTINUED  
IN 2011 BUT NOT YET  
COMPLETED**

Reference to the Strategic Plan: Promotion of consumer interests, priorities: Users' needs according to the segment, consumer protection, transparency, information.

The 2010-2013 Strategic Plan has given issues relating to consumers renewed importance in the BIPT policy. The Consumer Department established in 2010 was reinforced by new staff in 2011 obtained by a reallocation of human resources and was finally able to really start developing its activities.

The Strategic Plan highlighted the importance of taking into account the needs of users, including businesses, the protection of private consumers, transparency of tariffs available on the market and information provision to users. It was also pointed out that there is a need for systematic or targeted checks to verify whether the operators are meeting their statutory obligations and to let the sector know that BIPT intends to ensure compliance with the provisions of the law that benefit consumers. In 2011 a series of activities were initiated in the field of consumer protection. Most of these will be continued in 2012 but some achievements can already be highlighted.





## COOPERATION WITH OTHER OFFICIAL BODIES FOR CONSUMER PROTECTION

BIPT reinforced its cooperation with the Office of the Ombudsman and the Consumer Affairs division of the FPS Economy. Meetings were held with the Office of the Ombudsman in April, May and September 2011. This enabled BIPT to obtain a clearer picture of the difficulties in the field and the practices of some operators. The problems that were identified during these meetings helped BIPT to prepare its monitoring programme (see below).

In December 2011 the BIPT Council and the management of the Consumer Affairs division of the FPS Economy met and the Council decided to hold meetings to exchange information and experience on a regular basis. BIPT and the FPS Economy have appointed a single point of contact to ensure a better flow of information between the two bodies. BIPT also proposed trilateral meetings between the bodies; these will take place as of 2012.

Moreover, BIPT started working closely together with the FPS Economy on specific issues. So the two bodies opted for a common approach so that subscribers who chose to terminate their contract with Belgacom TV (because the Jupiler Pro League football matches were no longer broadcast) could do so free of charge.

In relation to the decision in Q1 2011 to impose a fine on Telenet, BIPT and the FPS Economy also consulted on (i) the relationship between Article 108, § 2, of the Electronic Communications Act of 13 June 2005 and the 'unlawful stipulations' section of the Act of 6 April 2010 on market practices and consumer protection, and (ii), within the limits of the investigation secrecy that respectively apply to BIPT and the FPS Economy, on the actual follow-up that any authority might give to the complaint by Test-Aankoop/Test-Achats addressed to the respective authorities.

BIPT and the FPS Economy are examining together the shortcomings regarding the mention of prices on operators' websites that BIPT observed during its inspections of tariffs introduced into the tariff simulator.

BIPT also contributes to the protection of consumers through its investment in the Ethics Commission for Telecommunications, for which it provides the secretariat and pays the operating costs.

The Telecommunications Code of Ethics was published in the Belgian Official Journal on 21 June 2011. Meanwhile, the first cases have been investigated and on 21 December 2011, two decisions were taken to impose a fine of EUR 2,000, and in one of the two cases, to suspend a number for 14 days. BIPT proposes to change the Act so that operators who have violated the Code of Ethics have to contribute to the costs of proceedings they have caused.

## MORE TRANSPARENT PRICING

With transparency, it is possible to know the products that are being offered on the market, as well as the prices charged; this enables the consumer to make an informed choice.

BIPT increases transparency through two key programmes: the price barometer and the tariff simulator.

### Price barometer

The price barometer shows the evolution of the electronic communications services tariffs since 2009. This tool was regularly updated in 2011.

### Tariff simulator

The tariff simulator ([www.besttariff.be](http://www.besttariff.be)), a free tool on the Internet for comparing the tariffs of the various services and operators, enables individuals to find the offer that best meets their needs and consumption habits. In 2011 considerable efforts were made to improve the reliability and ease of

use of the tool. It was reviewed in November 2011 by an external consultant, and it has been revamped and enhanced with bundled offers (bundles/packs). The site receives approximately 7,000 visitors per month.

### Network neutrality

Following the proposals to amend the Electronic Communications Act of 13 June 2005 and at the request of the Infrastructure Commission of the Chamber of Representatives, BIPT started a process of reflection about the neutrality of the networks. It has made a study of the prevailing texts, EU and BEREC recommendations<sup>24</sup> and the options that other Member States have considered, and consulted the operators on the proposed modifications. The opinion of BIPT was adopted on 5 October 2011 and published on 18 November 2011<sup>25</sup>.

The conclusion of its analysis is that BIPT – like the European Commission and BEREC – believes that the current regulatory framework as transposed in the preliminary draft transposition act would suffice to dispel concerns that have been raised to date in the debate about network neutrality. The changes tighten the transparency requirements and grant BIPT powers that enable it to prevent degradation of the service and blocking or delaying traffic on public networks.

BIPT believes that the preliminary draft transposition act will make it possible to achieve the objectives laid down in the European directives and that the market evolution has to be monitored and sufficient experience has to be gathered in the context of the obligations already imposed by the changes made to the regulatory framework in 2009, so as to be able to make a reasonable judgement of its effectiveness before adopting measures such as the bills and amendments that the MPs propose.

BIPT believes that if an Act is adopted on this subject before the general transposition act comes into force, this could compromise the operation of the market and the freedom of consumers.

### BETTER INFORMED USERS

Information is one of the key themes of BIPT's work that benefit consumers. This concerns not only the information that operators have to provide to their subscribers, but also the information that BIPT makes available to users.

#### Verification of the information made available by the operators

The law requires operators to make certain information available spontaneously to their subscribers. According to Article 110, § 4, of the Electronic Communications Act of 13 June 2005, operators have to inform subscribers at least once a year on their invoice for a maximum of five numbers about which rate plan is most favourable for them, taking into account their user profile. Also, operators who use fixed-term contracts have to mention the expiry date of the contract on the subscriber's invoice, as required by Article 4 of the Ministerial Decree of 12 November 2009 establishing the level of detail of the detailed basic invoice for electronic communications.

If an operator amends its terms and conditions of contract or raises prices by more than the rate of inflation, pursuant to Article 108, § 2, of the Act it has to inform its subscribers individually of their right to terminate their subscription free of charge. In 2011 BIPT examined 18 cases and carried out administrative investigations. On 29 November 2011 BIPT adopted a decision to impose an administrative fine of EUR 250,000 on Telenet for failing to inform its subscribers individually and properly about the possibility of terminating their contract without penalty when it changed its general terms and conditions on 1 October 2010.

<sup>24</sup> Body of European Regulators for Electronic Communications.  
<sup>25</sup> Opinion of the BIPT Council of 5 October 2011 regarding the amendments of 7 and 12 July 2011 to the bill amending the Act of 13 June 2005 on electronic communications in order to guarantee net neutrality  
<http://www.bipt.be/ShowDoc.aspx?objectID=3628&lang=EN>



### Information provided by BIPT

BIPT is charged by law with promoting the provision of clear information to users. In that respect, BIPT has taken a number of initiatives, not only by verifying that operators are providing adequate information, but also by making certain information available to users itself.

In 2011 BIPT published lists of frequently asked questions (FAQs) about international roaming and prepared others relating to switching operators and subscribing to various types of electronic communications services. BIPT is also working on information and a method to help users measure the actual speed of their Internet connection. The drafting of this document requires a lot of preparatory work, for which the Office of the Ombudsman and the operators are consulted and for which, for the development of the method to measure the actual speed of Internet connections, public consultations are even held.

To gain a better understanding of users' expectations, the first steps have been taken for the launch of a major public survey. A consultant has been selected and has prepared a questionnaire. The survey itself will take place in 2012.

The BIPT website will be reviewed, both the section intended to inform consumers and the information that specifically concerns the operators.

### Quality indicators

Following the campaign to check the service quality indicators in the electronic communications sector, BIPT has begun considering the relevance of the current indicators and how best to measure them.

### An observatory of postal services

In the postal sector, BIPT decided to create sets of indicators relating to postal services that will allow to verify developments and changes in the industry, measure the effects of the liberalization and if necessary, take measures that can ensure fair competition in the market. This 'observatory of postal services' will enable market developments to be monitored efficiently. The first results will be published in 2012.

## 12. ACTIONS TO PROMOTE SOCIAL COHESION



**PROJECT CONTINUED  
IN 2011 BUT NOT YET  
COMPLETED**

Reference to the Strategic Plan: Social cohesion, priorities:  
Universal service, tariffs, quality and availability of service,  
specific social groups.

### IN THE FIELD OF ELECTRONIC COMMUNICATIONS:

#### Should the universal service be reformed?

In preparing the application of the new European framework for electronic communications, BIPT had the opportunity to examine the current operation of the system of universal service and consider reforms. To broaden its process of reflection, BIPT asked other national regulatory authorities in the European Union how the regulatory framework of the universal service is applied in their country. BIPT carefully studied the answers concerning the universal service received during the consultation on the draft new regulatory framework. Furthermore, BIPT drew up a series of questions about consumers' expectations of the universal service; these questions will be put to consumers in a major survey that will take place in 2012. Finally, BIPT prepared and published specifications in order to hire a consultant, who will make proposals for action, after a thorough analysis, for adapting the universal service to the current socio-economic market realities.

Simultaneously, BIPT wrote the annual report in 2011 about how Belgacom fulfilled its universal service obligations in 2010<sup>26</sup>. It recorded the sector contributions to the financing of the Office of the Ombudsman for Telecommunications for 2010 and carried out a number of specific tasks, such as drafting a response to the BEREC questionnaire on the European Commission draft recommendation on the universal service, the analysis of the position adopted by the Belgian State or BIPT in various legal proceedings relating to the regulation of universal service, scrutiny and follow-up of the declarations submitted by the company iDangie for the provision of telephone directories and information services.

#### Social telephone tariff

In 2011 35,812 applications for a social tariff were processed and 47,717 existing cases were reviewed. BIPT carried out several additional substantive activities:

- › the adoption of the BIPT decision of 10 October 2011<sup>27</sup> which aims to make the operators contribute to the investment and maintenance costs for the 'social tariff' database borne by BIPT in 2006;
- › the preparation of specifications concerning the calculation of net costs and the assessment of the unfair burden of providing the social element of the universal service;
- › the analysis for the inter-cabinet working group of the various hypotheses proposed for reforming the mechanism for granting social telephone tariffs;
- › the survey to identify the information that was most frequently missing from the applications for a social tariff, which have to be handled manually;
- › the project to increase the reliability of the STT database (social telephone tariffs) in the context of the automation process.

<sup>26</sup> Pursuant to the provisions of Article 103 of the Act of 13 June 2005 on electronic communications, the report analyses both the way Belgacom fulfilled its universal service obligations in 2010, and examines the issue of possible changes to the universal service concept.

<sup>27</sup> Following the annulment by a judgment of the Brussels Court of Appeal of 7 September 2010 of the Council Decision of 22 April 2009 on the methodology for allocating 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, this decision of the BIPT Council aims to define the method for allocating the costs related to the database of the social element of the universal telecommunications service to the various operators involved. This document also lays down the amounts of the costs for 2006.



### **Fight against over-indebtedness**

At the request of the Senate, BIPT held a public consultation and issued an opinion on 25 October 2011 on a bill from Senator V. Matz which aimed to combat over-indebtedness, in particular by providing for the automatic suspension of telephone subscriptions after two successive unpaid invoices. In that opinion, BIPT proposed to amend Article 119 of the Electronic Communications Act instead of adopting the parliamentary bill.

### **IN THE FIELD OF POSTAL SERVICES:**

#### **Calculation of the net cost of the universal postal service for 2009**

BIPT verified the calculation of the cost of the universal postal service for 2009 and adopted a decision in that regard on 5 April 2011<sup>28</sup>. BIPT established that since the universal postal service was profitable, there was no reason to apply intangible benefits or other factors to determine the net cost of the universal service, nor to study the unfairness of these costs for bpost.

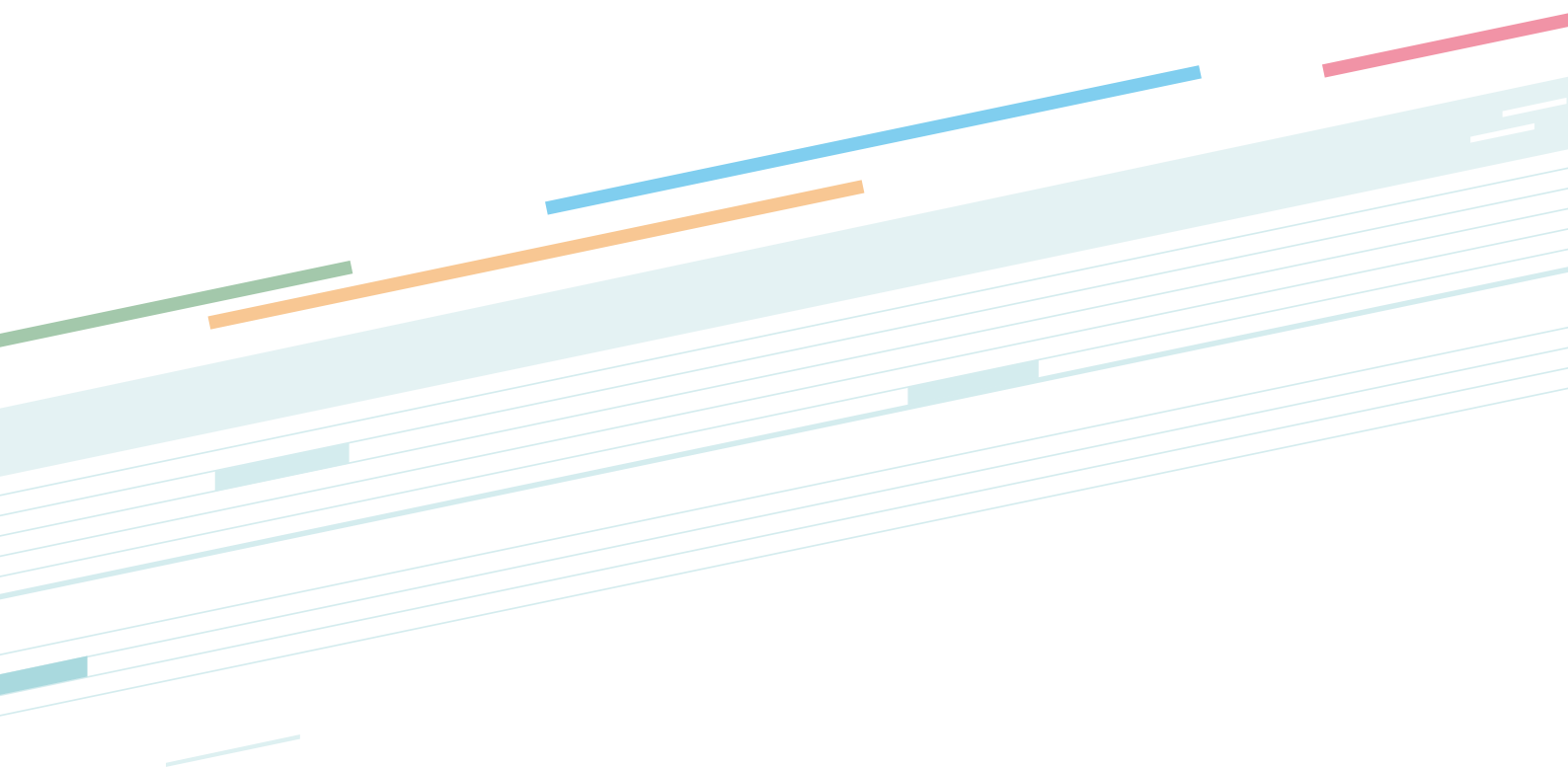
#### **What should the tariffs be for small users?**

BIPT monitored the prices of postal charges for individual consumers and examined whether the increases proposed by bpost, the provider of the universal service, exceeded the limits laid down in the Royal Decree of 11 January 2006 implementing title IV of the Act of 21 March 1991. The limits are calculated based on the health index, which is increased by a bonus linked to performance in delivery of letter post by bpost. The full tariffs per item for 2011 and 2012 met the limits imposed and were the subject of BIPT decisions of 20 September 2011 and 21 October 2011.

#### **Customer satisfaction survey**

On 8 November 2011 BIPT published a communication giving the results of the bpost customer satisfaction survey for 2010, pursuant to the management contract between bpost and the State.

<sup>28</sup> As it is obliged to do by Article 144 undecies of the Act of 21 March 1991 on reform of certain public economic undertakings.





# Description of the activities of the BIPT departments in 2011

# 3

MOVING FORWARD TO A STRONG & INDEPENDENT BIPT



# 1. MANAGEMENT OF THE ELECTROMAGNETIC SPECTRUM, LICENCES AND FREQUENCIES

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

## FREQUENCY MANAGEMENT

BIPT has been assigned the task of managing the electromagnetic spectrum in Belgium. This includes both the daily management of frequency assignments and coordinations and the long-term policy on frequency plans and adjustments. Below, you will find the main achievements of the Frequency Management Cell within the Assignments Pool for 2011.

Frequency assignments for land mobile 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 cases handled regarding mobile services under the HCM Agreement Number of coordinations	2011
Coordinations from Belgium	83
Incoming co-ordinations from France	627
Incoming co-ordinations from the Netherlands	187
Incoming co-ordinations from Germany	235
Incoming co-ordinations from Luxemburg	13
Incoming coordinations from the United Kingdom	5

Number of cases per category			
	Cancelled	Modified	New
1 <sup>st</sup> category	516	1,723	1,746
2 <sup>nd</sup> category	0	5	1
3 <sup>rd</sup> category	70	251	64
4 <sup>th</sup> category	-	-	-
5 <sup>th</sup> category	-	-	-
6 <sup>th</sup> category	2	22	35

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

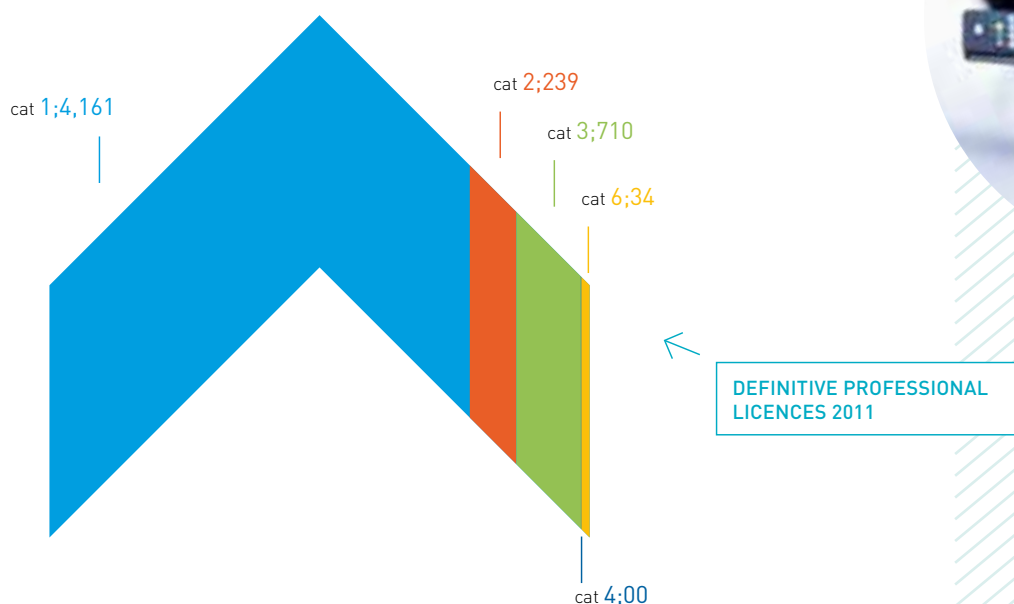
This Cell also performs the frequency coordinations for satellite links (earth stations, networks...) and microwave links and handles the correspondence with the Radiocommunication Bureau of the ITU.

Types of cases	Quantity
2006 Geneva Agreement (DVB-T: Digital Video Broadcasting-Terrestrial)	444
1984 Geneva Agreement (FM broadcasting)	1,100
1975 Geneva Agreement	0
2002 Maastricht Agreement / 2007 Constanza Agreement (T-DAB: Terrestrial Digital Audio Broadcasting)	3
2005 HCM Agreement (general), User rights	129
Earth stations (Art. 9), satellites (Art. 9), microwave links	1,502
Miscellaneous (coordinations, interference, temporary frequencies, enquiries, wind turbine projects, aviation, maritime...)	1,140
Comixtelec (Joint Commission for Telecommunications)	194
ITU – Radiocommunication Bureau and Conferences	162
CEPT – ERO (European Radiocommunications Office) – ECC (Electronic Communications Committee)	1
Satellite organisations (Eutelsat, Intelsat, ESA...)	2
<b>Total</b>	<b>4,678</b>

### LICENCES FOR PRIVATE RADIOCOMMUNICATIONS NETWORKS AND INDIVIDUAL RADIO STATIONS

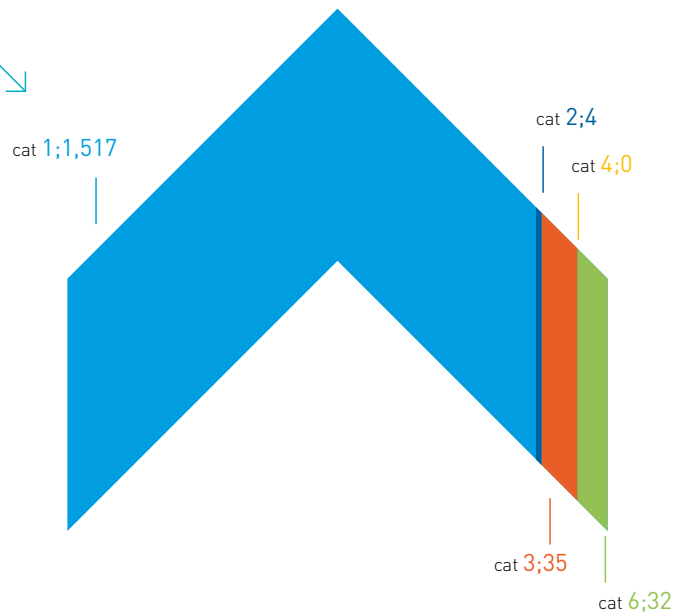
The following table shows the total number of licences issued on 31 December 2011 in the various categories of individual stations or private networks for radiocommunications as defined in the Royal Decree of 18 December 2009 on private radiocommunications and user rights for fixed networks and trunked networks.

Number of licences for private radiocommunications networks and individual stations		Fixed	Temporary
1 <sup>st</sup> category	Private mobile radio networks	4,161	1,517
2 <sup>nd</sup> category	Fixed networks (microwave links)	239	4
3 <sup>rd</sup> category	Mobile radio networks rolled out by public authorities and institutions for medical and social assistance	710	35
4 <sup>th</sup> category	Jammers installed in penitentiaries	-	-
5 <sup>th</sup> category	Radio amateurs	5,531	-
6 <sup>th</sup> category	Other radio networks (radar, demonstrations, testing...)	34	32
Satellites	Satellite networks	55	40



## TEMPORARY PROFESSIONAL LICENCES 2011

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### LICENSING OF OPERATORS

#### Trunked (radio) networks and networks on board aircraft

The company Borealis Polymers NV/SA was licensed to operate a TETRA network (*Terrestrial Trunked Radio*) on the premises of their site<sup>29</sup>.

A temporary licence was granted to the company ROW 44 Inc for the use of the GSM 1800 MHz band to offer mobile telephony services on board aircraft flying over Belgian territory.

#### Test licences

With the aim of promoting the introduction of new technologies for mobile electronic communications, a temporary licence for demonstration and testing purposes was granted to the company 3 Stars Net NV/SA on the territory of several municipalities of the Brussels-Capital Region.

### RECOGNITION OF RADIO AMATEURS AND MARITIME RADIO OPERATORS

Whether the radiocommunications 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 radio stations fall under the remit of the FPS Mobility and Transport.

These exams are organised at regular intervals at the offices of BIPT. A computerised system asks multiple-choice questions for radio amateurs, 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 courses that are compulsory for taking the GMDDS exam.

#### Examinations

The number of entries in 2011 for obtaining a basic license was 96 (175 in 2010). 60 candidates took the HAREC exam (Harmonised Amateur Radio Examination Certificate) in 2011 (compared with 85 in 2010).

The success rate for the basic license in 2011 was 82.29% (80.6% in 2010), and for the HAREC exam, which imposes a higher standard, 48.33% (56.5% in 2010).

<sup>29</sup> 3583, Beringen

## Maritime radiocommunications

### a) Examinations and certificates

444 candidates took the SRC exam<sup>30</sup> in 2011 (587 in 2010) with a success rate of 83.78% (87.2% in 2010). 1,213 candidates entered for the VHF exam (1,416 in 2010), and 1,058 or 85.80% of them passed (84.9% in 2010).

For the GOC (General Operator's Certificate) and the ROC (Restricted Operator's Certificate) exams the number of candidates in 2011 was 198 (of which 148 passed) and 148 (of which 123 passed) respectively.

Over 45,000 persons hold a ship station certificate.

### b) Maritime licences

In 2011 the total number of ship station licences was 16,240 (16,007 in 2010), distributed among 12,597 pleasure boats, 3,167 commercial inland waterway vessels, 331 seagoing vessels and 143 fishing boats.

## Aeronautical radiocommunications

### a) Certificates

In 2011 BIPT issued 328 aeronautical station operator certificates based on examinations organised by the FPS Mobility and Transport (362 in 2010).

At present, 5,600 persons hold an aeronautical station operator certificate.

### b) Licences

Currently 1,965 licences for aeronautical stations are managed by BIPT: 1,191 for installations on board aircraft and 774 for portable stations.

## COMPLAINT BY ENTROPIA NV/SA ABOUT THE TREATMENT OF A.S.T.R.I.D.

BIPT received a complaint in 2011 from Entropia Digital NV/SA<sup>31</sup> in connection with ASTRID<sup>32</sup>.

Entropia complained about the following:

- › ASTRID targets non-public services and enters into contracts with private commercial undertakings that do not carry out activities related to public service.
- › The annual audit and supervision fee for radiocommunications paid by ASTRID to BIPT is proportionally much lower than what Entropia has to pay for a smaller number of base stations. ASTRID is not subject to the legislation on private radiocommunications. In the opinion of Entropia, this results in discrimination and unfair competition.

So Entropia complained about ASTRID's special status and felt disadvantaged by it. This status is established by law. With regard to the annual audit and supervision fee, ASTRID is subject only to the payment of a lump sum to BIPT, regardless of the number of base stations. ASTRID is also authorized to provide commercial services provided that this does not cause distortion of competition. ASTRID is also authorized to open up the ASTRID systems to non-public services such as public transport companies and gas, electricity and water companies.

<sup>30</sup> Short Range Certificate.  
<sup>31</sup> Entropia Digital NV/SA is an operator of mobile radiocommunications in Belgium and the Netherlands. It provides services over a mobile radio network for professional users..

<sup>32</sup> A.S.T.R.I.D. is a public limited company responsible for the radiocommunications network for the Belgian emergency and security services.

However, BIPT is not responsible for monitoring the legislation governing these provisions and therefore cannot verify whether this constitutes a distortion of competition. Therefore, BIPT advised Entropia to contact the Minister of the Interior, who is responsible for the legislation in question.

#### COMPATIBILITY BETWEEN THE FM BAND (87.5 MHz–108 MHz) AND RADIO NAVIGATION SYSTEMS FOR AIRCRAFT ABOVE 108 MHz

In the course of 2011 BIPT held a consultation with the communities on this issue and formulated a proposal for making the LEGBAC calculations based on the licensed broadcaster database. This proposal was not accepted. One party claimed that the calculations should be based on a database of coordinated stations and stations proposed for coordination. In the absence of agreement on a database of coordinated stations, it is impossible to establish a correct database of the coordinated situation. It was agreed to continue working with the database that Belgocontrol has built up over the years. This database will be checked for errors, duplicates, etc.

To this end, the Flemish Community and the German-speaking community would explore the possibilities for communicating the database of coordinated stations directly to Belgocontrol. Based on the data sent to them, Belgocontrol would check the database for incorrect or missing data.

## 2. MEASUREMENTS AND CHECKS TO KEEP THE SPECTRUM FREE OF INTERFERENCE



Within BIPT, the National Spectrum Monitoring Department (NCS) is responsible for 'policing the radio waves' in the broad sense of the term. In addition to the management based in Brussels, the NCS has five monitoring centres across the country (Anderlecht, Antwerp, Ghent, Liège and Seneffe). Basically, its tasks can be broken down into five main categories:

- › dealing with radio interference;
- › preventive checks on professional radio networks;
- › checks during major events;
- › cooperation with the public prosecutor's offices and the police;
- › tasks as a supplement to other functions.

NCS interventions: cases brought between 01/01/2011 and 31/12/2011	
'Interference' cases	327
Preventive checks on professional users	500 (categories 1, 2, 3, 4, 6)
Checks during events	157
Monitoring of broadcasts	26
Monitoring of radiotelephone equipment on board ships	161
Checks – other	1,281
Radiation measurements at transmission sites of the Environment, Nature and Energy Department of the Flemish government	618
Various cases – tasks performed at the request of authorities	628 (judicial)

Because 2012 is the year of the Olympic Games in London, UK regulator OFCOM called on its international colleagues to provide staff to assist and reinforce its own workforce for the management and control of the use of spectral resources during this global event. Thousands of frequencies, tens of thousands of users will be spending time in close proximity during the games, where television stations from around the world, security services and technical timing equipment are just a few of the many services that will make use of that scarce resource, spectrum.

The NCS was also invited thanks to its experience with major international events (F1 Grand Prix, Tour de France, European Football Championship...). Therefore, eight technicians attended information sessions in 2011, attended courses and participated in team building with about 100 other technicians drafted in for the occasion. The experience that these technicians will have gained will be an undeniable asset for the evolution of future checks.

#### MANAGEMENT OF ANTENNA SITES – AERIAL REGISTER – CHECKS ON ANTENNA SITES

- › For the management of antenna sites, 4 major tasks were carried out:
- › In the context of shared site use, the website<sup>33</sup> with the locations of the antenna sites is maintained on a monthly basis. The website shows the locations of the antenna sites throughout the territory, and for the antenna sites in Flanders and Wallonia, a report is also available that rates the exposure.
- › The second task was to provide analyses, under an agreement with the Flemish government, resulting in certificates which Flanders issues to rate the exposure. In 2011, 1,182 cases were handled.
- › The third task consisted of measuring the exposure in the field. Between August 2010 and February 2012, 618 measurements were carried out.
- › The fourth and final task is to coordinate the messages that are exchanged between operators in the context of the shared site usage.

## 3. ESTABLISHMENT OF TASK FORCES



By bringing together all BIPT departments responsible for monitoring into the Monitoring Pool, synergies and new perspectives for monitoring were created. This illustrates the optimal use of BIPT's limited resources. Thus, task forces were set up in the field to offer support to departments that did not have the necessary human or material resources. This new approach also allows to benefit from the experience and expertise of officials in the field as their knowledge is enhanced.

In 2011 the 'Postal' and 'Telecom' task forces were set up to support the Postal Market, Assignments and Consumer Pools:

- › 600 measurements were carried out in the context of the verification of the 3G coverage obligations imposed on mobile operators;
- › Inspection of 123 post offices, 152 Postal Points and more than 800 post office boxes. During those inspections, checks were carried out on the written and oral information provided to the users, accessibility for people with disabilities and the opening hours. A report will be drafted about these inspections in 2012.



<sup>33</sup> [www.sites.bipt.be](http://www.sites.bipt.be).

- › In 2011 BIPT also checked the delivery times for 2010 of bpost with regard to the following elements:
  - › domestic priority mail;
  - › domestic non-priority mail;
  - › incoming priority international mail;
  - › national registered mail;
  - › national parcels.
- › The inspection of 484 public telephone booths<sup>34</sup> run by Belgacom, the universal service provider, to assess the percentage of equipment in working order and to assess compliance with the regulatory requirements of the Royal Decree of 27 April 2007 on facilitating access for persons with a disability.
- › Especially after findings of the Office of the Ombudsman, BIPT launched a series of targeted checks on a number of companies which did not appear to be meeting their obligations under the general terms and conditions. A number of operators were urged to comply with legal obligations; infringement proceedings were initiated against one company. A second infringement action against the same company is ongoing for insufficient cooperation with the Office of the Ombudsman and failure to follow its recommendations.

Finally, in connection with the universal service, BIPT also monitored the way in which the BIPT decision of 17 June 2009 granting Belgacom a derogation from Article 3, second paragraph of the Annex to the Electronic Communications Act of 13 June 2005<sup>35</sup> has been implemented; it moreover examined the way in which the universal service provider has implemented the new regulations on distribution of the telephone directory (according to the opt-in system<sup>36</sup>), which was introduced by the Ministerial Decree of 7 April 2010<sup>37</sup>.

The Council has also opted to set up a task force on 'Broadcasting':

- › When (A)Maghreb TV came on air, BIPT checked that the television programs of (A)Maghreb TV could not be regarded as exclusively belonging to one or the other community within the meaning of Article 127, § 2, of the Constitution and therefore did indeed come under the regulatory powers of BIPT. The latter was confirmed during that check.
- › In order to be able to monitor programme content as media regulator in the Brussels-Capital Region, BIPT has subscribed to all broadcast media (cable, satellite, IPTV) which are available at its headquarters, which is sufficient to be able to monitor the broadcaster Maghreb TV, whose programming can currently be seen only via the xDSL network (Belgacom TV), as well as those of other broadcasters who, due to international rules, would also fall under the remit of BIPT.
- › To date, BIPT has received no complaints about possible infringement of the Act of 30 March 1995 on electronic communications networks and services and the exercise of broadcasting activities in the bilingual Brussels-Capital Region.

<sup>34</sup> This is slightly more than 8% of the current hardware.


<sup>35</sup> Content of the universal service: under certain conditions (length of the connection, limited number of annual connections, quality of the mobile coverage), Belgacom is allowed to provide the fixed geographical component of the universal service by making use of a technique based on the installation of a SIM box.


<sup>36</sup> That is to say that it is agreed in advance.

<sup>37</sup> Belgian Official Journal of 6 May 2010.

## 4. MARKET SURVEILLANCE IN THE CONTEXT OF DIRECTIVE 1999/5/EC ON RADIO EQUIPMENT AND TELECOMMUNICATIONS TERMINAL EQUIPMENT AND THE MUTUAL RECOGNITION OF THEIR CONFORMITY



Radio equipment and telecommunications terminal equipment may not be marketed unless it meets the requirements of 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 Directive all radio equipment and telecommunications terminal equipment must bear the appropriate CE marking on its packaging as well as on the accompanying documents. The CE marking shall always include at least the CE mark. This mark looks like this: 

If a licence is needed for the use of the radio equipment or if the equipment makes use of frequency bands whose use is not harmonised throughout Europe, the CE marking has to include an alert sign (information sign). In that case the CE marking shall at least take the following form: . The information sign alerts the user to the fact that limitations apply for using the equipment.

Radio equipment that makes use of frequency bands whose use is not harmonised throughout 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 set out in Article 6.4 of the Directive. In 2011 883 types of radio devices were registered under that procedure, compared with 858 in 2010, which represents a very slight increase.

The European Commission makes a 'One Stop Notification' (OSN) procedure available on its server (<https://webgate.ec.europa.eu/osn>). The person responsible for the notification according to Article 6.4 can send his notification to a single central address. The system then distributes the application to the administrations of the Member States which have accepted the OSN principle. This is currently the case in 27 countries (24 EU Member States, including Belgium, plus Iceland, Norway and Switzerland/Liechtenstein). This procedure has been very successful because out of 883 notifications submitted, 872 (98.7%) were submitted using the OSN. The remaining notifications were submitted by e-mail (9) or letter (2). In order to use this OSN procedure, one needs to register first. This can also be done by means of the link mentioned above.

Equipment operating in frequency bands whose use is harmonised throughout the Community does not have to be notified to BIPT. This equipment is part of the so-called 'Class 1' category. It is recommended to regularly consult the list of 'Class 1' equipment. This list can be consulted directly via [www.ero.dk/rtte](http://www.ero.dk/rtte), part of the website of the European Communications Office (ECO). The technical parameters which this radio 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.

In 2011 about 550 monitoring visits were conducted, mainly to shops, but also around a hundred public markets. Fifteen trade fairs were also visited, primarily to gain insight into new developments and also to use the opportunity to provide the exhibitors with timely information.





Sometimes, repressive measures were called for. The checks conducted in 2011 thus led to the seizures listed in the table below.

Equipment seized during checks in 2011			
Terminal equipment		Radio equipment	
Telephone equipment	425	Mobile phone handsets	714
Modems	1	Remote-controlled toys	686
		Computer mice and keyboards	597
		FM transmitters	276
		Wireless USB Bluetooth and Wi-Fi sticks	170
		Scale models	152
		Wireless game controllers	113
		Other	1,497
<b>Total</b>	<b>426</b>	<b>Total</b>	<b>4,205</b>

Postal items containing radio equipment are also frequently checked. In 2010 around 60 visits were made to the customs services in this respect. Many of the items checked contain devices bought on the Internet, directly from the manufacturer or via an auction website. In many cases the equipment does not comply with the legal requirements and is seized. The fact that a lot of non-CE marked equipment is offered for sale through these auction sites is alarming. The purchase of toy helicopters over the Internet also creates quite a few problems. If an infringement is observed, an official report is drawn up. In 2011 466 initial reports were made. During the follow-up of the court cases, a further 47 reports were made.

At the start of 2011 86 French-speaking and 216 Dutch-speaking persons had a general holder's licence. This number had increased by the end of 2011 to 91 French-speaking and 234 Dutch-speaking owners.

## 5. NUMBERING



BIPT is responsible for managing the national numbering plan, which includes tasks such as the allocation, reservation and withdrawal of user rights to numbers, and the transfer and supervision of number usage. In 2011 BIPT took three decisions regarding the reallocation of number blocks between operators and a decision refusing an exemption for short SMS number 4936 (it turned out that it was not being used in accordance with the SMS numbering plan). BIPT also sought ad hoc solutions for numbers that were assigned to operators who had gone bankrupt.

### NUMBER PORTABILITY

BIPT imposed a fine of EUR 2,000 in June 2011 on the Belgian Number Portability Association, which is charged with operating the technical platform for carrying out number transfers and which had not correctly applied the rules for sharing the costs applicable to that non-profit organisation. It also checked whether the activities of this organisation were consistent with the regulatory framework.

BIPT has conducted preliminary consultations about the way the new provisions of the European directives on number portability within one day can be applied in practice, and on compensation in the event of late or unlawful transfer. It will propose a draft Royal Decree on number portability when the new Electronic Communications Act will have been adopted.

### MACHINE-TO-MACHINE COMMUNICATION (M2M)

In order to adapt to the long-term trends in the market, BIPT also adopted a decision in September 2011 on the determination of the numbering plan for M2M communication.

### DOMAIN NAMES: CHANGE OF OPERATOR AND DNS.BE

The ISPA Code of Conduct<sup>38</sup> with regard to access to e-mail and web space for a certain period when switching Internet Service Provider was adopted by the BIPT Council on 1 March 2011.

In 2011 BIPT fulfilled its role as a representative of the public interest on the Strategic Committee of the national domain name registration bureau DNS.be. It also assisted in drafting sections of the law about the incorporation of DNS.be for the design of the new Electronic Communications Act.

## 6. NETWORK INTEGRITY AND SECURITY



Under Articles 113 and 114 of the Electronic Communications Act of 13 June 2005, BIPT has powers relating to the security of public electronic communications networks and services. Under this legal framework, BIPT carried out several important actions in 2011, including a survey on the mobile network security and a study on the FON service from Belgacom. Moreover, BIPT needs to play an active role in the context of the Act of 1 July 2011 on the security and protection of critical infrastructure. A Council Member was appointed on 31 October 2011 as the sectoral authority for critical infrastructure related to electronic communications.

Finally, BIPT has been monitoring technological developments in the field of cyber security, on the assumption that such a problem, if it degenerates, may have an influence on public telecommunications networks. In this respect BIPT attended the grand opening of the BCentre and liaised closely with CERT.

In this security context, BIPT collaborates with BelNIS, the Belgian Network Information Security Platform created by the government in 2005. At European level, BIPT continued to represent Belgium at the European Network and Information Security Agency (ENISA). BIPT participated in CyberAtlantic, the first joint cyber security exercise between the EU and the US (see the ENISA website: <http://www.enisa.europa.eu/>).

<sup>38</sup> ISPA (Internet Service Providers Association) is the Belgian association of Internet providers.



### SURVEY ON BELGACOM'S FON SERVICE

In November 2011, Belgacom began to roll out its FON service known as 'Belgacom FON'. This enables end-users to allow Belgacom to open up access to their routers to third parties who are also customers of the same Belgacom FON service, when they are travelling around. This kind of service expands the concept of a shared Wi-Fi hotspot, by allowing the possibility of connecting to a service combining high bandwidth and extensive coverage.

At the request of the Minister, BIPT has provided a report with an initial analysis of the various questions, which considered aspects relating to the security of this new service. The modem-router owner's network is kept secure and separated from the public network to which the nomadic users connect. The nomadic users have to exercise caution when they surf the Internet, since the technology for access via public Wi-Fi hotspots does not allow a high degree of protection for the connections, thus exposing them to the danger of interception. Finally, Belgacom considers that it is capable of identifying any user of its service, as required by Article 126 of the Electronic Communications Act of 13 June 2005. The BIPT report concludes that currently, as far the Belgacom FON service is concerned, a cautious approach is advisable, but immediate action is not required.

### IMPLEMENTATION OF THE CRITICAL INFRASTRUCTURE PROTECTION ACT

Because of the omnipresence of communication networks and information systems, network security has become a cause for concern for society as a whole. A coordinated and appropriate response should be given to any breach of security that is large-scale or affects the country. Under the Act of 1 July 2011<sup>39</sup> on the security and protection of critical infrastructure, a member of the BIPT Council was appointed as the sectoral authority for critical infrastructure that underpins electronic communication.

Due to the interdependence and interconnection of the networks, the weakest link can lead to the loss of all electronic communications on a national or continental scale (blackout). Thus, the necessity of protecting critical infrastructure is abundantly clear. Another important aspect of this Act consists of making the security measures at national level converge and ensuring that their effectiveness does not stop at the boundaries of an operator's network.

The implementation of this Act consists of the identification and the designation of critical infrastructure by the sectoral authority. This first requires sector-specific criteria to be established that will be taken into account, as well as the content of the security plan that the critical infrastructure will have to satisfy, which will be incorporated into a sector-specific Royal Decree.

### OTHER MISSIONS IN THE PUBLIC INTEREST

#### Support of the authorities concerning legal interception

The Royal Decree of 8 February 2011<sup>40</sup> amends the Royal Decree of 9 January 2003 establishing the framework for legal interception of communications by the federal police, as well as the Royal Decree of 12 October 2010 regarding the specific rules for the legal duty to cooperate with requests by the intelligence and security services with respect to electronic communications. This Royal Decree reduces the costs associated with legal interceptions by 30%. BIPT was charged with devising a cost model that objectifies the costs that can be billed by the operators to the judicial authorities and the intelligence and security services, and even to enable subsequent reductions through a 'glide path'. The cost model which is now being developed should be as generic as possible so that new obligations on IP interception can be included and the impact of the Data Retention Directive can be estimated. The introduction of interception of IP communications was a priority in the development of this cost model.

<sup>39</sup> The wording of the ministerial appointment decision raises questions because the consequences for BIPT are not clear, since the sectoral authority is appointed by name, and it is therefore not BIPT. This wording should be reviewed in the context of broader reflection about the powers that have to be exercised in this matter and the necessary human and financial resources.

<sup>40</sup> Royal Decree of 8 February 2011 amending the Royal Decree of 9 January 2003 implementing Articles 46bis, § 2, first paragraph, 88bis, § 2, first and third paragraph, and 90(4), § 2, third paragraph of the Code of Criminal Procedure and Article 109ter, E, § 2, of the Act of 21 March 1991 on the reform of certain public economic undertakings, Belgian Official Journal 23 February 2011, entered into force on 5 March 2011.

Moreover, in 2011 BIPT continued its task which aims to draw up the list of 'Coordination Cells Justice' by making available sections of a secure website. Its importance is twofold: 1) to give the operators the opportunity to update details of their Justice Cell at any time, and 2) to provide the competent authorities with the opportunity to consult this information.

BIPT is also a member of the PNCT/NOT platform (national platform for consultation on telecommunications), which brings together the security services, the magistracy and police services and is intended to establish consultation on matters relating to the interaction between telecommunications and judicial affairs and security. Actions such as the cost model to objectify the costs that can be billed by the operators to the judicial authorities and the intelligence and security services or the introduction of a secure website for the 'Justice coordination cells' are carried out in permanent consultation with the PNCT/NOT platform.

### **Contribution of know-how for the benefit of the emergency services**

Access to the emergency services is a topic that meets societal concerns. Given the need to guarantee access to the emergency services that provide assistance in situ for the deaf, hearing-impaired or people with disabilities who are unable to call, and given the increase in electronic means of communication, a consensus has been reached about broadening the ways in which people can access the emergency services. Various laws have been adopted, in particular the Act of 29 April 2011 establishing the 112 centres and the 112 agency, which provides access to emergency services via any type of electronic communication.

In that respect, BIPT has been advocating since September 2011 a reinforcement of dialogue and mutual consultation between the emergency services and the sector, in order to identify those technologies which offer genuine added value for the target groups. This resulted in public consultations and an information session.

One of the first concrete manifestations of that programme will be the introduction of access via text message to the control centres of the emergency services that provide assistance in situ for those who cannot make use of a voice call (Act of 14 November 2011 amending the Electronic Communications Act of 13 June 2005 as regards accessibility of the emergency services).

Another project involves the creation and management of the fund for the emergency services. This concerns a fund in which the sector should contribute to finance a number of investments made by the control rooms of the emergency services. Three Royal Decrees have to be adopted to make that fund operational. At the end of 2011, these were presented for public consultation. The conclusions will be published later.

### **Post-Pukkelpop initiatives taken by BIPT**

The media coverage of a tragic event can sometimes be the catalyst for addressing an issue. The disaster at the 2011 Pukkelpop festival tragically highlighted a problem of network congestion in emergency situations. To prevent such situations and so that the emergency services can continue to use their network on the spot, various agencies have tried to provide a solution. BIPT played a role as an expert and channelled these initiatives, in liaison with the Directorate-General Crisis Centre at the FPS Interior. Various technical solutions were considered and discussed with the sector via a public consultation organized by BIPT, based on which a draft action plan was drawn up by the Crisis Centre.





## 7. BIPT PERSONNEL POLICY



The BIPT personnel policy is primarily aimed at implementing the core strategy theme 'Culture', which not only focuses on the expertise of the staff, but also on various other competencies which have to shape BIPT's mission. Specifically, this phase deals with the following areas.

### RECONVERSION OF THE WORKFORCE

Because all benchmarks show that in its core business as a regulator, BIPT is quite understaffed in terms of economists, lawyers and engineers, and because the administrative route to expanding the workforce is proving very difficult, BIPT has carried out an internal exercise designed to upgrade its existing jobs. This has led to the conversion of 15 administrative positions to middle management positions. The relative importance of this change is illustrated by the fact that the number of jobs at A level rises from 69 to 84. It is a substantial increase in the strength of the organisation, although still only a first step, especially as at the same time, BIPT is increasingly being assigned new tasks. Because the conversion is not budget-neutral, the approval of the political authorities has been requested.

### INTERNAL PROMOTION EXAM, NOW ALSO TO A LEVEL

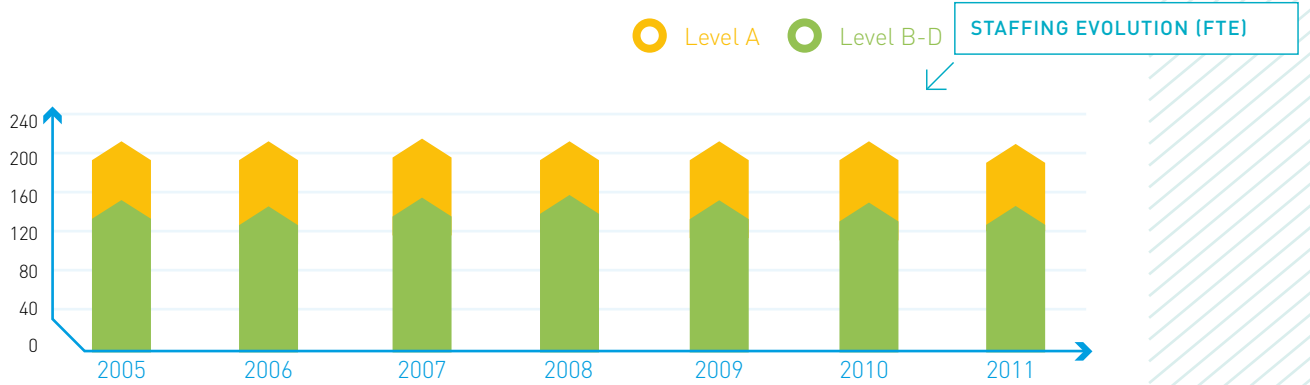
BIPT wants to further empower its staff, particularly by making aspects like working in a results-oriented manner more measurable, increasing the sense of responsibility and actual commitment. In a first phase the possibility to give staff new tasks and challenges via voluntary internal mobility was already created and expanded.

In 2011 the regulatory framework was also developed that allows employees to move up to A level. It increases career opportunities and career development prospects. The content of the exams has been devised, with attention focused on aspects of theoretical knowledge as well as job-related skills, in particular management of departments and staff. The exams will be able to start in 2012.

The human resources policy has always devoted particular attention to discussing all these actions, some of which imply a real change in culture, beforehand in a constructive and transparent context with the trade union organisations. This lays the foundations for and is the best guarantee of success.

### STAFF TRAINING

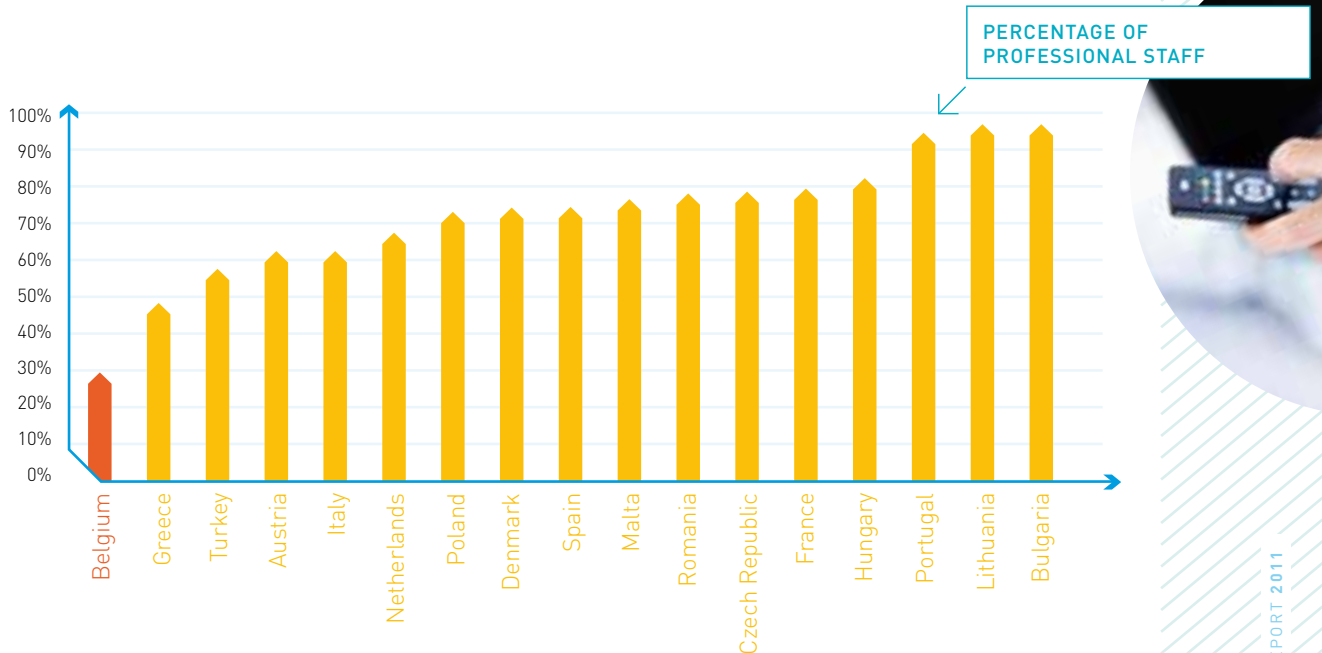
Since 2011 the 'Training' Cell has been restructured and in cooperation with the different pools, a training programme has been devised that fits the key policies of the Strategic Plan. It is an incremental exercise in which priority is given to increasing expertise in general, and that in regulatory aspects in particular. Examples of this include training in economic regulation and project management. Internal exchange of know-how is promoted by organizing internal workshops, and this makes the collaboration between the various departments more efficient.



The number of staff members at A level includes officials who have a university degree or equivalent qualification, as well as those who have risen to A level after passing a promotion exam.

### INTERNATIONAL BENCHMARK

The position occupied by Belgium in the chart below shows that BIPT has a sizeable shortage of university-level staff to carry out its tasks. Even though regulation depends only to a limited extent on the size of a country (neither in terms of area nor economic size), BIPT does want to make a comparison with a neighbouring country such as the Netherlands, that is about the same size. Indeed the numbers speak for themselves: the Belgian regulator has less university-level staff (cited in the ITU benchmarks as 'professional staff') than the Dutch regulator, whereas its remit and powers are much wider-ranging. It should be noted here 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 or the Ethics Commission.



'Professional Staff' is deemed to mean university-level staff [ITU World Telecommunication Regulatory Database data 2009]



## 8. LEGAL DEPARTMENT



The Legal Department is a horizontal service which supports the other BIPT departments. The department is involved in the entire decision-making process about projects emanating from the various BIPT departments, particularly with regard to market analyses and the implementation of the decisions. This cooperation in the preparation of the decisions reinforces their legal certainty. The Legal Department also provides opinions and analyses on its own initiative or at the request of various departments. The department is involved, for example, in the awarding of all BIPT public procurement contracts (drawing up the specifications for the award of contracts), as well as the follow-up of public procurement in general. Finally, the Legal Department proactively disseminates legal information, taking into account the most recent work on legislation, case law and doctrine. Its role extends to training staff in those fields of law that fall under the jurisdiction of BIPT.

### DISPUTES COORDINATED IN 2011

The Legal Department also coordinates the legal proceedings primarily against decisions taken by BIPT, as well as decisions of a regulatory nature taken by the Belgian State on telecommunications or postal services. According to the proceedings, exchanges may also take place between BIPT and regional, federal or European authorities. The main cases in the course of 2011 are:

1. Proceedings for annulment of Article 30 of the Electronic Communications Act before the Constitutional Court and the Court of Justice of the European Union and procedure for compensation before the Court of First Instance of Brussels.  
Belgacom applied to the Constitutional Court for annulment of Articles 2 and 3 of the Act of 15 March 2010 amending Article 30 of the Electronic Communications Act of 13 June 2005. This Act establishes the legal basis of the fees for frequency use by mobile operators. Before ruling on a principle, the Constitutional Court referred four questions to the Court of Justice of the European Union for a preliminary ruling. The Court of Justice is due to answer them in the course of 2012.  
Belgacom also requested that the Court of First Instance of Brussels order BIPT and the Belgian State to refund the amount of any fees paid pursuant to this Act of 15 March 2010 for 2010 and 2011. The Court has decided not to rule, at least pending the end of the European proceedings.
2. Proceedings for suspending market 7 (regulation of mobile termination rates or MTRs).  
The BIPT decision of 29 June 2010 lowers the mobile termination rates, to reach a tariff on 1 January 2013 of 1.08 cent/min and put an end to the system of tariff asymmetry between the three mobile operators in Belgium. That decision is being challenged by Belgacom, Mobistar and KPN GB.  
The Brussels Court of Appeal has determined that BIPT made no clear errors of judgement and therefore dismissed the requests for suspension of the BIPT decision regarding the regulation of mobile termination rates on 15 February 2011. A judgment establishing a principle is expected in the first half of 2012.
3. Proceedings for annulment of the administrative fine imposed on Belgacom.  
BIPT imposed an administrative fine of EUR 800,000 on Belgacom on 28 June 2010 because when the company notified its subscribers in February 2010 about a price increase for its Internet offerings, it had not informed them at the same time of their right to terminate their contract without penalty.  
On 14 September 2011, the Brussels Court of Appeal dismissed Belgacom's appeal, but the administrative fine was reduced to EUR 500,000.

## MAIN REGULATORY TEXTS DRAWN UP IN 2011

The Legal Department also plays an important role in preparing regulations. Regarding the legislation, the department drew up the documents with a view to their adoption, first by the federal government and then by the legislative chambers and also provided ongoing support to the minister responsible for the dossier. Below, you will find some examples of the substantial involvement of BIPT in this role.

1. Act of 31 May 2011 pertaining to various provisions on telecommunications  
This Act amends the existing legislation<sup>41</sup>. Besides technical improvements, the Act of 31 May 2011 pertaining to various provisions on telecommunications increases consumer protection through a partial transposition of the new European regulatory framework dating from 2009. The Act also aims to reinforce BIPT and the Ethics Commission for Telecommunications.
  
2. Bill to transpose the European regulatory framework of 2009<sup>42</sup>  
The federal government approved this bill on 2 December 2011. This bill has many objectives: better protection of consumer rights (for example, by considerably reducing the time required to switch fixed or mobile operator, restricting the duration of the contracts that tie users to operators and making them clearer), increasing the powers of BIPT, increased efficiency in the management of scarce resources, making it possible to curtail some universal service obligations and modernising the operations in the context of the social element of the universal service, and improving the overall functioning of the market for electronic communications at European level by encouraging innovation and investment. The mechanisms for closer cooperation with the European authorities, including a new European institution (BEREC – Body of European Regulators for Electronic Communications), should enable a better approach to dominant economic positions in that sector. The judgments of the Court of Justice of the European Union of 6 October 2010 (see Case C-389/08 and C-222/08) and the judgment of the Constitutional Court of 27 January 2011 (Judgment no. 7/2011) resulted in the annulment of the mechanism for financing the social telephone tariffs as laid down in the Act. The bill brings the legislation in line with those judgments.  
Besides its activities in connection with this bill, BIPT provided advice to the federal minister on the bills transposing the same European directives by the regions.
  
3. Draft Royal 'Decrees on the emergency services fund'  
Article 107, § 5, of the Electronic Communications Act of 13 June 2005 charged the King with enacting various Royal Decrees to use the emergency services fund. This fund was established to make the operators fund a number of technical changes to the central interfaces of the control rooms of the emergency services (see paragraph 4 of the aforementioned Article 107). For example, this concerns the project Location Based Services (LBS). From 16 November 2011 to 21 December 2011 and with the consent of the relevant federal minister, BIPT held a public consultation on its website about the above draft Royal Decrees.

<sup>41</sup> Act of 17 January 2003 on the status of the regulator of the Belgian postal and telecommunications sectors and the Act of 13 June 2005 on electronic communications.

<sup>42</sup> Directive 2009/140/EC ('Better Regulation Directive') of the European Parliament and of the Council of 25 November 2009 amending Directives 2002/21/EC on a common regulatory framework for electronic communications networks and services, 2002/19/EC on access to, and interconnection of, electronic communications networks and associated facilities, and 2002/20/EC on the authorisation of electronic communications networks and services (OJ, 18 December 2009, L 337/37) and Directive 2009/136/EC ('Citizens' Rights Directive') of the European Parliament and of the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (OJ, 18 December 2009, L 337/11).





#### 4. 'Must carry and AMS (Audiovisual media services)' opinion

In the summer of 2011 BIPT was asked by Minister Laruelle, who is responsible at the federal level for audiovisual media in Brussels, to examine a draft amendment to the Act of 30 March 1995<sup>43</sup>. This text, which was requested by her private office, concerned the transposition of the 2009 directives which amended the European regulatory framework for electronic communications, as well as a review of the clause in connection with 'must carry', which had been criticised previously by the Court of Justice of the European Union.

## 9. COMMUNICATION DEPARTMENT



As part of the core strategy theme 'Dialogue and communication', BIPT aims to ensure good communication with stakeholders.

As announced in the 2010-2013 Strategic Plan in that context, BIPT is setting up a communication cell. A first step was taken in 2011 with the designation of a press spokesman. Initial contacts were made with journalists, press agencies and communication cells of foreign regulators. The Communication Cell examines elements of communication and plans the issue of press releases. In 2011, 15 press releases were sent out. The dissemination of this kind of clear, ready-to-use information for journalists resulted in the publication of press articles relating to BIPT regulation in 2011.

All enquiries from journalists were centralized and answered: for 2011, there were about 200 questions.

The Communication Department coordinated the drafting of key strategic documents:

- › the 2010 Annual Report;
- › the semi-annual reports to the Chairman of the Chamber of Representatives;
- › the 2010 electronic communications sector statistics.

The Communication Department started building the new BIPT website in 2011. Important initial results were achieved in deciding the design of the look-and-feel, ergonomics, structure and layout of the website. As the new website is based on visitor needs, it will have a clear focus on content that end-users are looking for, by separating this from content that is of more interest to the market players and professional users in the broad sense of the term. These respective needs will be decisive for the subdivision of the site into two areas, as well as for a part of the content (information will be drafted which is intended for consumers<sup>44</sup>). A powerful search engine will be tailored as closely as possible to the site content, so that visitors get relevant answers to their questions very quickly. The Communication Cell is the principal of the new site project.

Furthermore, the Communication Cell is the interface on a daily basis between the BIPT departments and the outside world; it quickly answers any questions that come in by telephone or electronic means. Concerning important issues, decisions and consultations, mailings are sent out to stakeholders (about 50 in 2011).

Like the other horizontal services, the Communication Cell also has the whole organisation as a customer. Therefore, it provides support and specialised information via internal mailings and via the BIPT intranet.

<sup>43</sup> Act of 30 March 1995 on the distribution networks for broadcasting and the exercise of broadcasting activities in the bilingual Brussels-Capital Region.

<sup>44</sup> These are the FAQs mentioned in Chapter II, point 12 of this document.

## 10. REGISTRY



The Registry includes the Secretariat of the Council, which supports the Council as a body, and the mail distribution service, which handles the incoming and outgoing correspondence.

The two main achievements in 2011 are the introduction of a system of Council decisions via e-mail and the design of workflows in preparation for the introduction of the electronic document management (EDM) system. This is part of the core strategy theme 'administrative efficiency', introducing simplification and preparing automation. The Registry is the principal for the electronic document management project.

The new procedure for organizing Council decisions via e-mail was introduced in early 2011. Decisions submitted via e-mail concern cases that are, on the one hand, sufficiently important to keep a trace of the decision-making process, but on the other hand, are sufficiently mature that debate is no longer required during a Council meeting in order to obtain agreement. The procedure was developed in collaboration with the IT Department and was already used 180 times in 2011.

The EDM system that BIPT will introduce in 2012 was prepared by services including the Registry in 2011. It is a system in which all incoming and outgoing documents (letters, e-mails, faxes...), as well as internal documents are scanned and then processed via a predefined workflow. The system also allows people to collaborate on one or more documents.

To prepare this kind of project, it is very important for further development that workflows should be thoroughly designed beforehand. The Registry designed various workflows in 2011 such as incoming mail, outgoing mail, parliamentary questions, and publication to the Internet. These workflows describe the operational processes, namely the routing of the documents and lists of actions that the staff have to perform to carry out their tasks successfully. Besides the aforementioned benefits, this future electronic document management system will also contribute to management maturity within BIPT.

## 11. IT RESOURCES



In 2011 BIPT continued its annual investments in the field of information technology, as well the partial renewal of its computer fleet and its software licences.

### 'CORPORATE' PROJECTS

The policy of the IT Department is focused on several major projects launched in 2011, namely:

- › electronic document management (EDM);
- › the new website, with an area for business users and an area for consumers;
- › the revision of the 'in-house' Frelic software (which manages spectrum and the fees from its users) and the integration of the team in charge of this application.



### IMPROVED SERVICE TO INTERNAL USERS

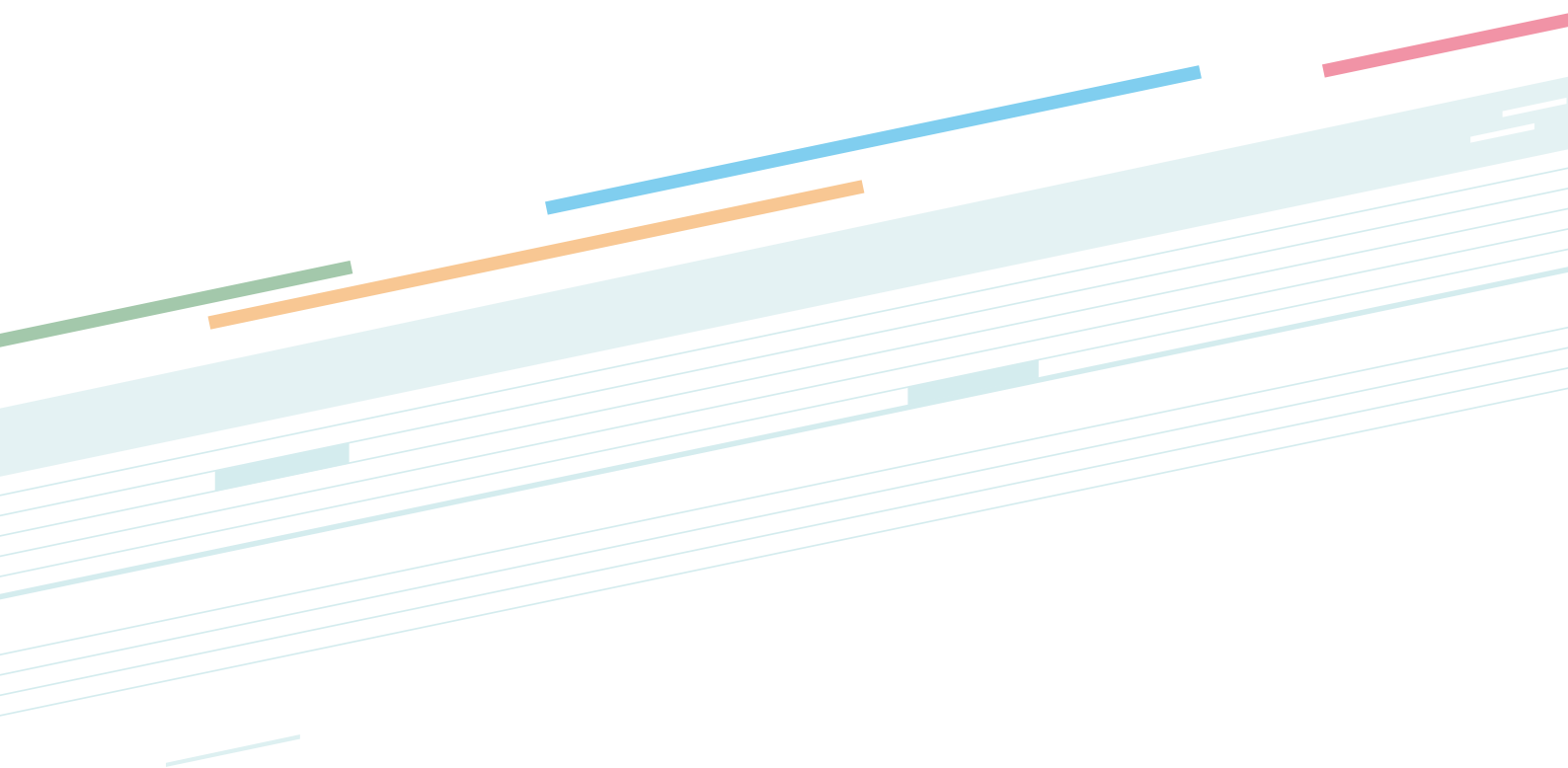
A project was initiated for the complete renewal of the servers. This will certainly benefit the virtualization and has its origins in the decision to merge the two IT networks (one is used specifically for the frequencies/licences and the other for the whole organisation).

The BIPT buildings were equipped with Wi-Fi at the same time as part of the staff received portable equipment in order to promote teamwork within the organisation.

Work has also started on renewing of the equipment for controlling the fixed measuring stations. The aim is to integrate the monitoring station of the CCRM (Monitoring Centre of the radio communications of mobile services), an institution of which BIPT is a member and which it partly finances and whose added value consists of continuous monitoring of the frequency bands in order to promote public safety.

The help desk has completed a modernization process, and introduced a ticketing system based on open source software.

An extranet was built to promote cooperation with sister institutions in the form of an e-room. In addition, the staff have a Stock & Share facility for exchanging large documents.





# Facts & figures

# 4

MOVING FORWARD TO A STRONG & INDEPENDENT BIPT

# 1. KEY FIGURES FOR THE TELECOM SECTOR

The following data give some of the highlights from the general BIPT publication on the economic situation of the telecommunications sector in 2011. This document is available on the BIPT website. The main elements can be summarized as follows:

## Market context: increasing investment, stable employment, falling sales figures

- › Overall, investment was higher than in 2010 (+19%). Between 2010 and 2011, 11 operators<sup>45</sup> on the Belgian telecommunications market raised EUR 1.48 billion for investment.
- › Employment was maintained, with a slight growth of 0.4%. This growth meant that at the end of 2011, 11 operators were responsible for total direct employment of 19,031 full-time equivalents (FTEs).
- › Revenues from fixed and mobile telecom services (retail and wholesale) of 11 operators fell by 3.3% in 2011 to approximately EUR 7.65 billion.
- › Revenue from fixed telecommunications services forms the majority (52%) of retail sales, which amounted to EUR 6.34 billion.

## Fixed telephony: the average price for fixed telephony fell by 5%

- › The average price per minute of landline voice calls fell from 4.54 cents per minute in 2010 to 4.31 cents/minute in 2011 (down 5%). Revenue from fixed telephone traffic decreased by an average of 10% between 2006 and 2011.
- › The number of households with fixed and mobile telephony grew: an increase from 53 to 59%. The overall proportion of households with fixed telephony remains stable at 64%.
- › The market for landline voice telephony continued to contract: the volume of fixed voice calls dropped from 12.51 to 11.83 billion minutes. The speed of the drop increased: -5.4% compared with -1.5% in 2010.

## Mobile telephony: the average price fell by 12%

- › The average price per minute decreased from 15.6 cents in 2010 to 13.8 cents in 2011 (down 12%). The three Belgian mobile network operators saw their retail revenues from mobile voice (including retail voice roaming) in 2011 drop by 11.6% to EUR 1.88 billion.
- › With the reduction in mobile termination rates imposed by BIPT in 2011, the real national average mobile termination rate fell from 6.4 cents/minute in 2010 to 3.9 cents/minute in 2011 (decrease of 39%). The reduction had an impact of EUR 130 million on revenues.
- › The number of outgoing mobile voice minutes in 2011 grew by 2% to 14.86 billion and thus exceeded the number of fixed voice minutes. The number of active mobile subscribers of the 3 Belgian mobile operators (including MVNOs, excluding M2M) increased and reached approximately 12.5 million at the end of 2011. This represents 3.2% increase. In 2011 an active mobile voice subscriber of a Belgian mobile network operator spent an average of EUR 14.52 per month (ARPU mobile voice).
- › The number of text messages sent by mobile subscribers continued to grow: +17%. The average active mobile subscriber sent 145 text messages per month. Net retail revenue from text messages fell for the first time. With sales of EUR 422.46 million, the figure was 4.7% lower than in 2010 (EUR 443.23 million). The average price per text message in 2010 declined from 2.4 cents to 2 cents in 2011 (down 17%).

<sup>45</sup> Belgacom NV/SA, KPN Group Belgium, BT Limited, Colt Telecom, Mobistar Enterprise Services, Mobistar NV/SA, Numéricable, Telenet, Verizon Belgium Luxembourg NV/SA, Brutélé, Tecteo.

### **Fixed broadband: Belgium among the European leaders in the development of high-speed fixed broadband**

- › Within Europe, Belgium is among the leaders in the development of high-speed fixed broadband. At the end of June 2011, at least 30% of fixed broadband lines operated at speeds of 30 Mbps or more. Only Lithuania (39%) and Romania (43%) score better. The European average is significantly lower at 7%.
- › At the end of 2011, 69% of broadband lines had a maximum speed equal to or greater than 10 Mbps.
- › At the end of 2011, Belgacom's market share was 41.6% while the cable operators had 47.1% market share and the other alternative operators 11.3%.
- › Fixed broadband penetration (lines per 100 inhabitants) reached 32.4% at the end of 2011, an increase of 1.3% compared with 2010.

### **Mobile broadband: mobile penetration increased by 117%**

- › 2011 saw an increase in the penetration of mobile broadband (GSM) in Belgium: from 792,559 users to 1,717,918 (+117%). In the ranking of mobile broadband penetration (3G) in Europe, our country was in 22nd place at the end of June 2011, with 12.9%.
- › The net retail revenues from mobile data services went up 32% to EUR 305.31 million. This increases their share of mobile revenues of the three mobile network operators from 6 to 8%. ARPU for mobile data (EUR 7.44 per month) was situated in 2011 between the ARPU for text messages (EUR 3.27 per month) and the ARPU for voice (EUR 14.52 per month).

### **Bundles: the trend for buying bundles continues**

- › The trend of buying several products from the same provider continues. At the end of 2011, 49% of Belgian households bought electronic communications services in a bundle, compared to 40% a year earlier.
- › Broadband was bought in a bundle by 80% of private fixed broadband subscribers. A majority (48%) buy 2 additional products. 28% purchased broadband as part of a double play bundle, and 3% as part of a quadruple play bundle.
- › Digital television was bought in a bundle by 55% of private television subscribers. 36% buy 2 additional products, 17% buy digital television as part of a double play bundle and 2% as part of a quadruple bundle.

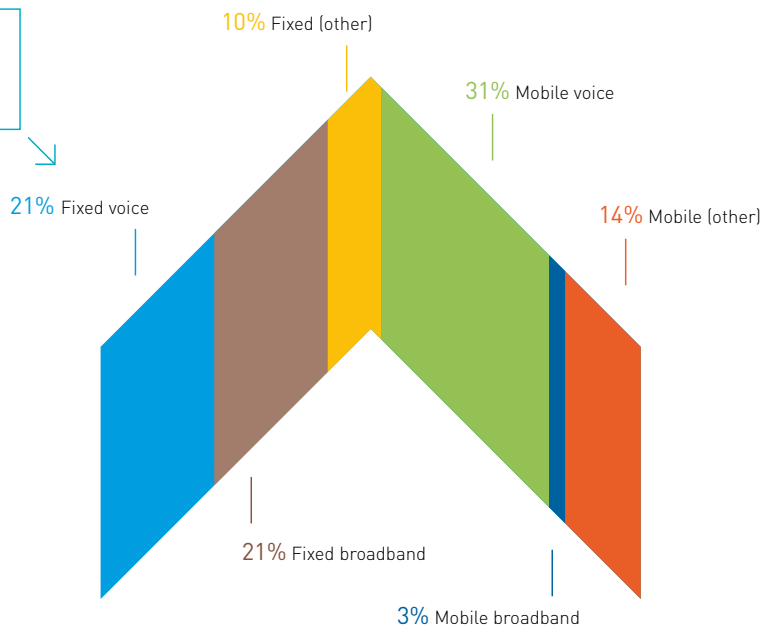




## 1.1. ECONOMIC MARKET CONTEXT

### 1.1.1. Turnover

DIVISION 2011 RETAIL REVENUES FROM TELECOMMUNICATIONS EARNED BY 11 OPERATORS



11 operators<sup>46</sup> generated turnover of EUR 6.34 billion in 2011 from the sale of electronic communications services in the retail market.

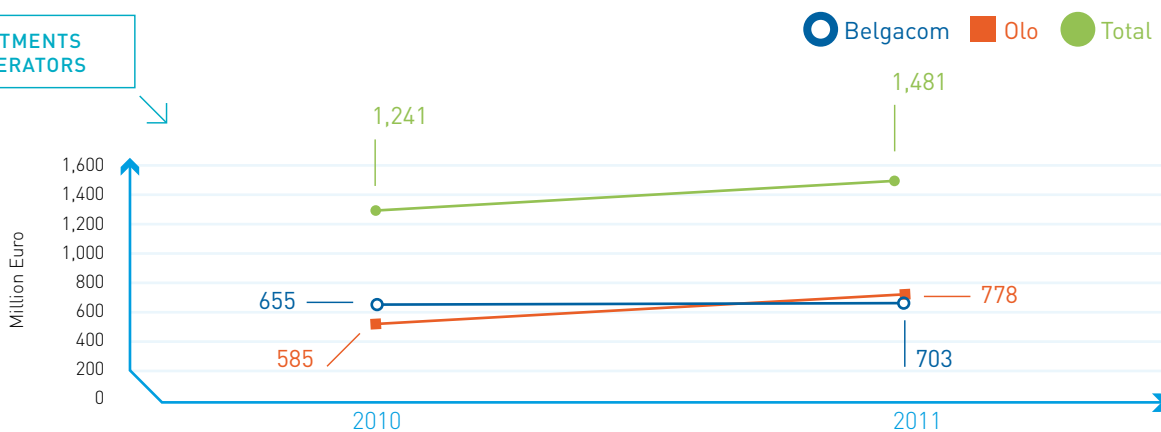
52% of these revenues come from fixed services.

Mobile telephony represents 31%, while fixed telephony only accounts for 21% of total retail revenues.

Broadband generated 24% of the revenues of the telecom sector last year.

### 1.1.2. Investments

INVESTMENTS 11 OPERATORS



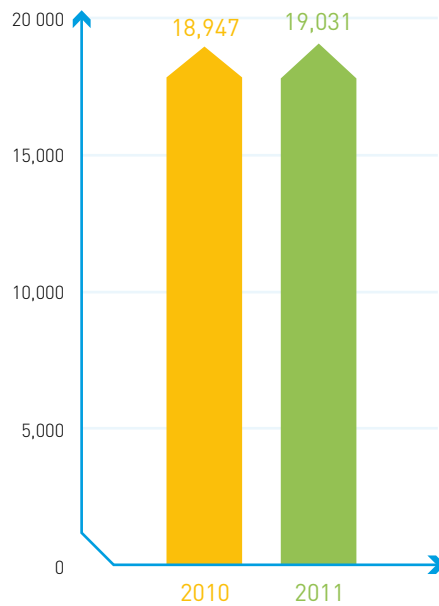
<sup>46</sup> Belgacom NV/SA, KPN Group Belgium, BT Limited, Colt Telecom, Mobistar Enterprise Services, Mobistar NV/SA, Numéricable, Telenet, Verizon Belgium Luxembourg NV/SA, Brutélé, Tecteo.

Investments in the electronic communications services sector rose strongly in 2011: +19% to EUR 1.481 billion.

The alternative operators contributed most to this figure, accounting for 80% of the total growth.

### 1.1.3. Employment

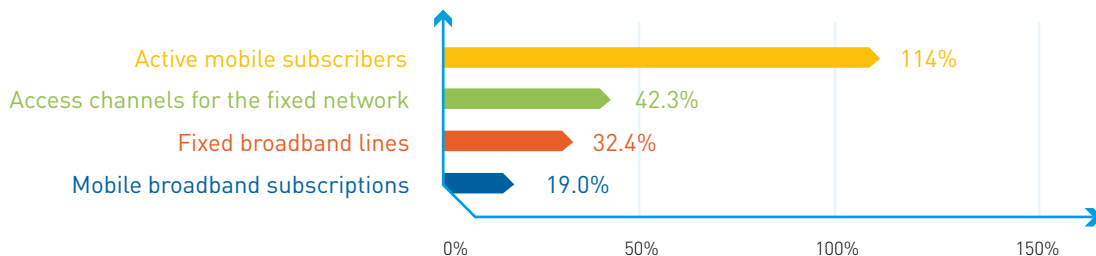
PERSONNEL (FTE's)



At the end of 2011, 19,031 full-time equivalents were employed by 11 operators, an increase of 0.4% compared with the end of 2010.

### 1.2. SUBSCRIBERS

PENETRATION (IN % OF POPULATION)



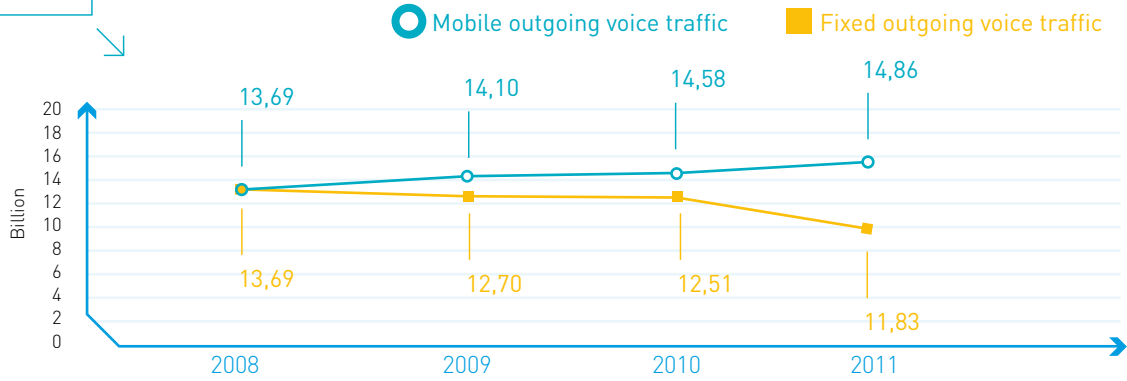
On 31 December 2011 in Belgium, there were:

- > 4,631,072 access channels to the fixed telephone network
- > +/- 12.5 million active mobile subscribers
- > 3.54 million fixed broadband lines
- > 30% fixed broadband lines with a speed  $\geq$  30 Mbps
- > 2.08 million mobile broadband subscriptions (via PC and mobile phone)
- > 2.2 million private subscribers with a bundle. This corresponds to 48% of Belgian households.

### 1.3. USAGE

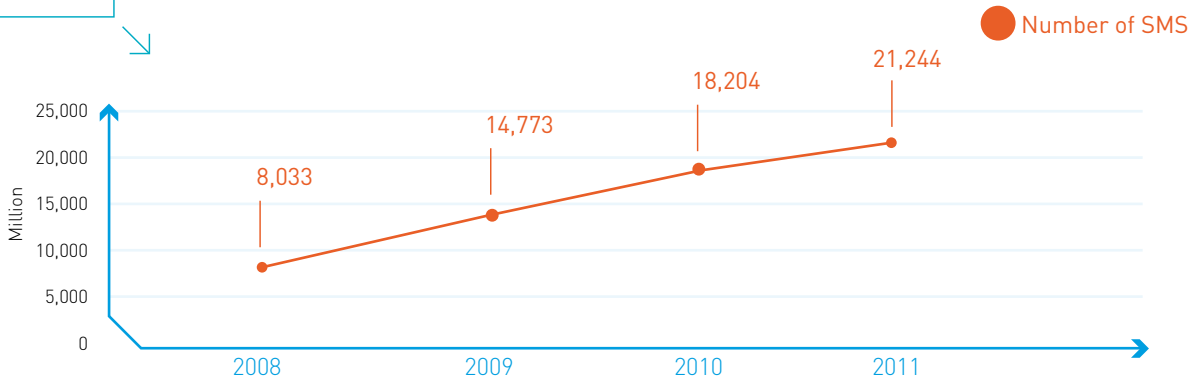
68

#### VOICE TRAFFIC



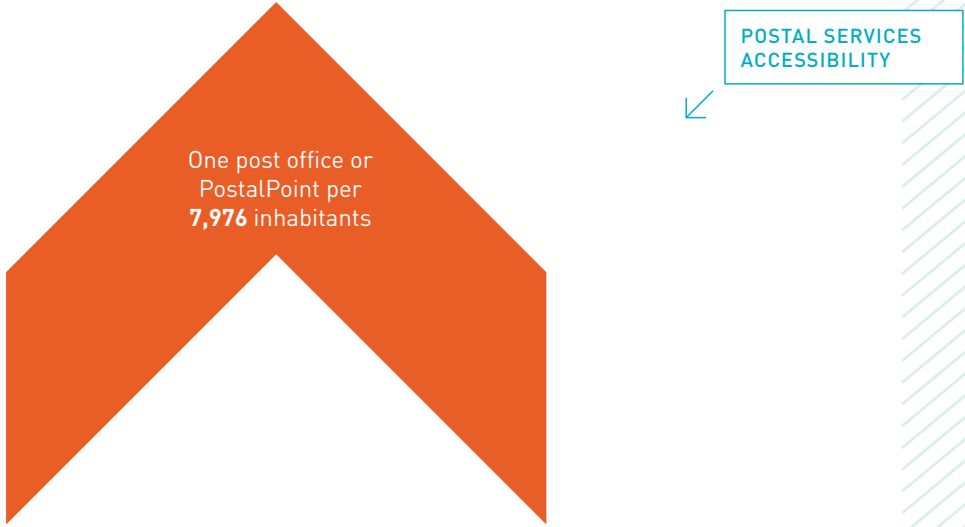
There were 26.69 billion minutes of calls in 2011, of which 11.83 billion were on fixed telephone networks and 14.86 billion on mobile phone networks. Overall, the market shrank by 1.5%.

#### SMS VOLUME



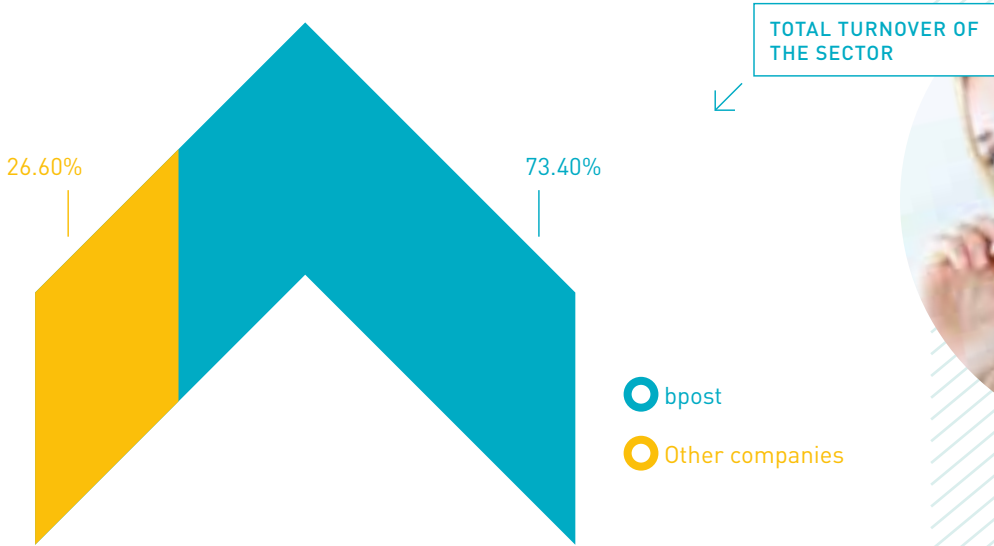
21.24 billion text messages were sent in 2011. The slowdown in growth that started in 2010 continued in 2011: +17% compared with +23% in 2010 and +84% in 2009.

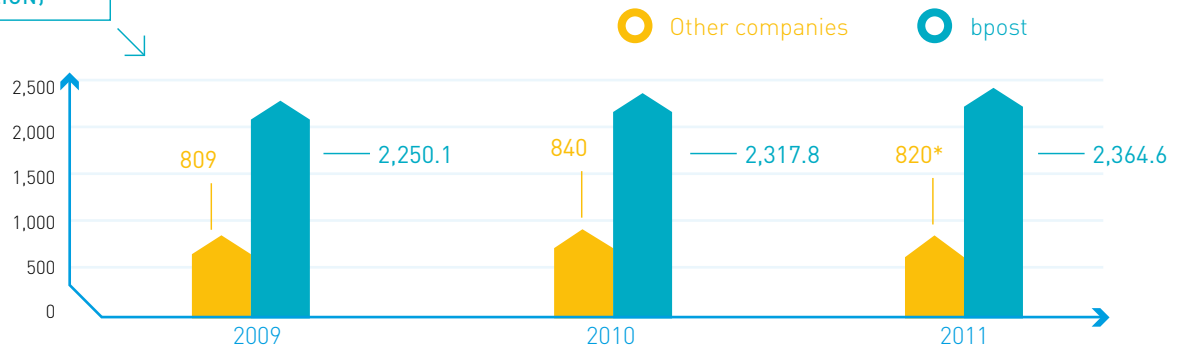
# 2. KEY FIGURES FOR THE POSTAL SECTOR



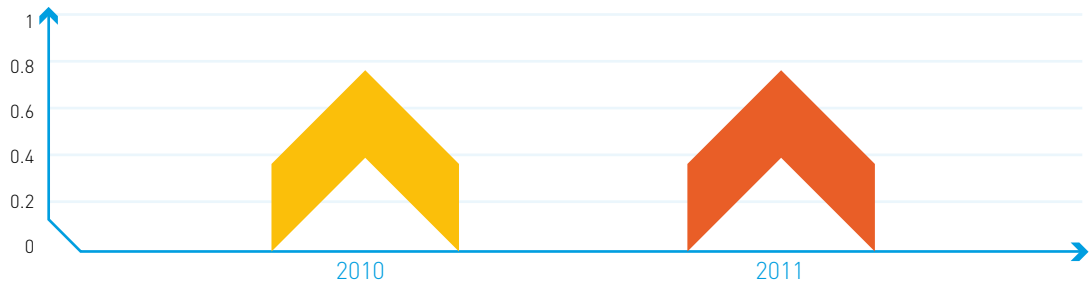
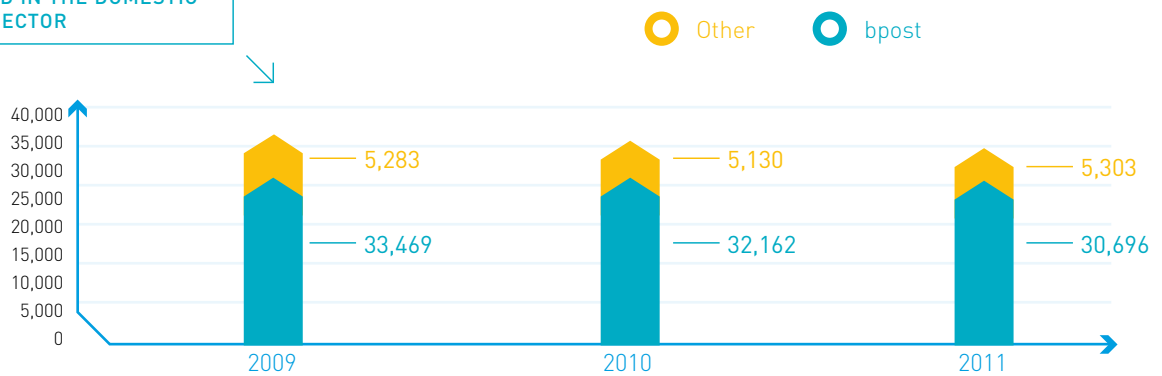
One operator, bpost, is in charge of the universal postal service.

1102 other companies are listed in the telephone directories as 'courier services', mainly in the express mail segment.

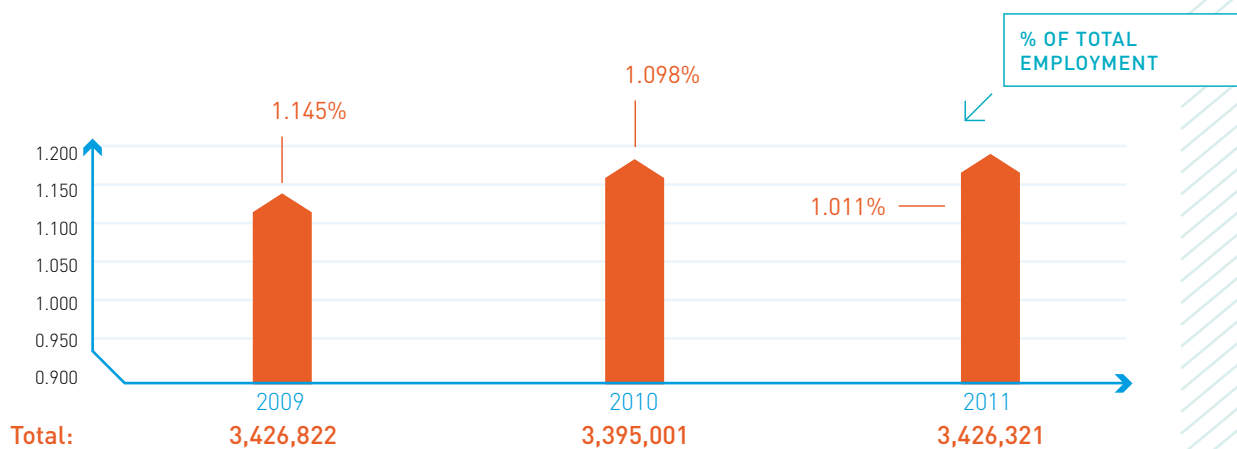


2011 TURNOVER  
(EUR MILLION)

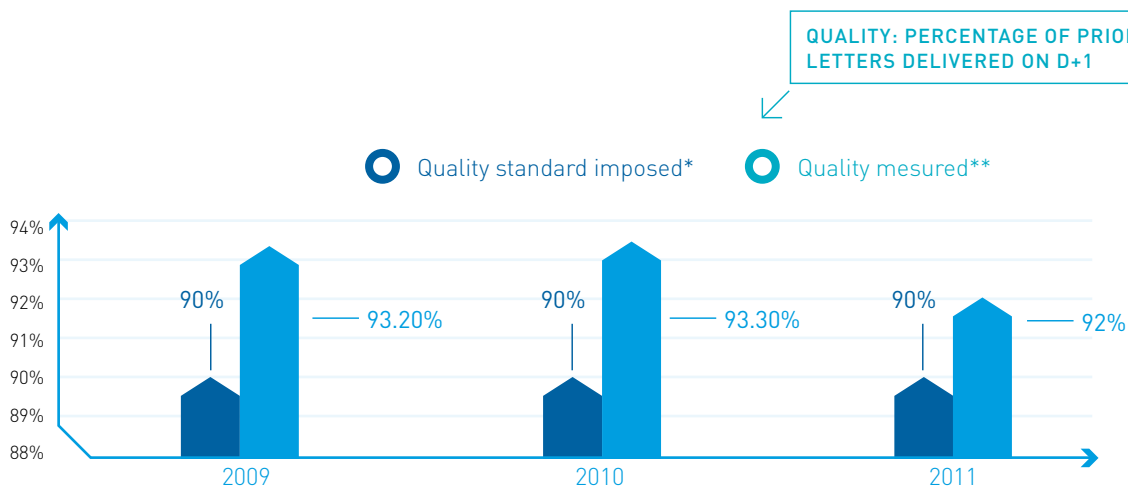
Source: National Bank of Belgium  
\* : BIPT estimate

TURNOVER OF THE  
SECTOR AS % OF GDPTOTAL NUMBER OF PEOPLE  
EMPLOYED IN THE DOMESTIC  
POSTAL SECTOR

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



Source: BIPT calculation



\* This standard was specified in the fourth management contract concluded between bpost and the State.

\*\* Source: Belex

## PROFILE OF THE EXPRESS MAIL MARKET IN 2011

	Market total (in Billion Euro)		Breakdown in %	
	2010	2011	2010	2011
Volume	114	109		
Sales	€ 840			
B2B	€ 755	€ 720	89.8%	83.7%
B2C	€ 86	€ 140	10.2%	216.3%
'Economy'	€ 183	€ 259	21.8%	30.1%
'Premium'	€ 657	€ 602	78.2%	69.9%
Domestic	€ 355	€ 348	42.3%	40.5%
International	€ 485	€ 512	57.7%	59.5%

B2B: Business to Business  
 B2C: Business to Consumer  
 Economy: cheapest product range  
 Premium: most expensive product range



## 3. BIPT FINANCES

### 3.1. ACHIEVEMENTS BY THE OFFICE OF THE OMBUDSMAN FOR THE POSTAL SECTOR IN 2011

INCOME	euro	EXPENDITURE	euro
Reimbursement	425	Personnel	1,302,671
Services performed for third parties (sector contributions)	1,460,066	Operations	270,950
		Investment expenditure	92,670
		Umbrella organisations	0
<b>TOTAL</b>	<b>1,460,491</b>	<b>TOTAL</b>	<b>1,666,291</b>

In 2011 a new mechanism for financing of the Office of the Ombudsman for the Postal Sector came into force<sup>47</sup>: this service is now funded by the companies against which admissible complaints are handled by the Office of the Ombudsman. BIPT calculates the amount of the contribution to the Office of the Ombudsman costs and then bills each company involved for the sum that it owes.

### 3.2. ACHIEVEMENTS BY THE OFFICE OF THE OMBUDSMAN FOR TELECOMMUNICATIONS IN 2011

INCOME	euro	EXPENDITURE	euro
Reimbursement	127,844	Personnel	1,757,061
Services performed for third parties (sector contributions)	2,083,346	Operations	470,349
		Investment expenditure	104,028
		Umbrella organisations	0
<b>TOTAL</b>	<b>2,211,190</b>	<b>TOTAL</b>	<b>2,331,438</b>

### 3.3. ACHIEVEMENTS OF BIPT IN 2011

INCOME	euro	EXPENDITURE	euro
Reimbursement	94,590	Personnel	20,495,270
Licence and monitoring fees for private radio communications	16,413,863	Operations	5,203,556
Public licence fees	23,595,467	Investment expenditure	1,709,811
Post	2,263,836	Umbrella organisations	1,833,394
Miscellaneous	10,551	Treasury	4,200,000
Services performed for third parties	-705,024	CF/RT <sup>48</sup>	4,290,200
<b>TOTAL</b>	<b>41,673,283</b>	<b>TOTAL</b>	<b>37,732,231</b>

<sup>47</sup> In 2011 the Court of Justice of the European Union ruled on the powers of the Office of the Ombudsman and the definition of the term 'user' in response to a question referred to the Court of Appeal of Brussels for preliminary ruling concerning infringement proceedings BIPT had instituted against DHL International, Express Line and DHL Express.

<sup>48</sup> These are the salaries fully paid by BIPT of staff assigned to the radio and television licence fee department.

Since 2011 the regulatory activities of BIPT for the postal sector have also been financed by the sector, namely by the provider of the universal service and by the licensees. An appropriate procedure had to be devised for this purpose. However, in 2011 BIPT's income and expenditure showed no structural difference compared to the previous years. Income comprises fees for frequency licences, numbering plans, licences for and declarations of telecommunications networks and services, as well as declarations of operation regarding other services, including in the postal sector.

BIPT is obliged by law to transfer the balance between its income and expenditure to the Treasury, taking into account an annual cash reserve to be established during the budgetary consultations. New projects can be considered during that process. With the entry into office of the new Council and the implementation of the Strategic Plan, some financial leeway was built in to allow the expertise of BIPT to increase. The resulting proposals for which a political agreement is also needed, were only discussed on their merits on the political agenda in 2012.

Moreover, BIPT transfers an annual amount of EUR 1,200,000 to the Fund for the Fight against Over-indebtedness, pursuant to a measure adopted in the Programme Act of 23 December 2009.

The negative amount as income for services for third parties is a result of a re-invoicing of the sector contribution in the past to the expenses of the operations of the service 'Social Tariffs', pursuant to a judgment by the Court of Appeal on this subject.

Personnel and operating costs of the Office of the Ombudsman for Telecommunications and the Office of the Ombudsman for the Postal Sector are borne by the respective sectors. They are the subject of a separate budget and a separate accounting business unit. In a sense, BIPT acts as pre-financer.

#### 3.4. ACCOUNTS

In total 40,031 accounting operations were carried out in 2011. These represent all transactions registered in the journal entries of the BIPT accounts. Overall 14,896 invoices were sent to licence holders. For the purchase of equipment and for services provided or work done, 3,649 invoices were received. The number of financial transactions that were processed, including payments made and revenues received, amounted to 21,486.





## 4. LIST OF COUNCIL INSTRUMENTS ADOPTED IN 2011



### 4.1. DECISIONS OF GENERAL INTEREST

Date	Title
23/12/2011	Decision of the BIPT Council of 23 December 2011 regarding the interoperability of CPEs in the frame of the WBA VDSL2 reference offer
20/12/2011	Decision of the BIPT Council of 20 December 2011 on monitoring the delivery times for 2009 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 at bpost
29/11/2011	Decision of the BIPT Council of 29 November 2011 imposing an administrative penalty upon Telenet for non-compliance with Article 108, § 2, of the Act of 13 June 2005 on electronic communications
16/11/2011	Decision of the BIPT Council of 16 November 2011 concerning the use of UMTS and LTE technologies in the 900 MHz, 1800 MHz and 2 GHz bands
16/11/2011	Decision of the BIPT Council of 16 November 2011 concerning the repartition of the 900 MHz, 1800 MHz and 2 GHz bands
09/11/2011	Renewal decision of the BIPT Council of 9 November 2011 correcting the decision of the BIPT Council of 3 August 2010 regarding the BRUO rental fee
21/10/2011	Decision of the BIPT Council of 21 October 2011 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 year 2006
07/10/2011	Decision of the BIPT Council of 7 October 2011 on radio interfaces B17.1 up to B17.3
03/10/2011	Decision of the BIPT Council of 3 October 2011 on the coexistence between 4G operators in the 2500-2690 MHz band and radars in the 2700-2900 MHz band
13/09/2011	Decision of the BIPT Council of 13 September 2011 regarding the regulatory qualification of the products and services offered by bpost for the year 2010 and the 'transit' product
07/09/2011	Decision of the BIPT Council of 7 September 2011 regarding the conformity of Belgacom's cost accounting system for 2009
06/09/2011	Decision of the BIPT Council of 6 September 2011 on the composition of the Board referred to in the Royal Decree of 5 May 2006 regarding a conciliation procedure before the Belgian Institute for Postal Services and Telecommunications for the year 2011
06/09/2011	Decision of the BIPT Council of 6 September 2011 on the determination of the numbering plan for M2M communication
11/08/2011	Decision of the BIPT Council of 11 August 2011 regarding the reference offers BRUO/BROBA/WBA VDSL2/BROTSoLL 2010 (Open Calendar, Certified Technicians and BROBA Ethernet Dedicated VLAN)

- 20/07/2011** Decision of the BIPT Council of 20 July 2011 regarding the conventional tariffs of bpost for 2010
- 28/06/2011** Decision of the BIPT Council of 28 June 2011 imposing an administrative penalty upon the non-profit making association Number Portability in Belgium because of the non observation of the cost sharing rules applicable to the central reference data base
- 14/06/2011** Decision of the BIPT Council of 14 June 2011 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
- 08/06/2011** Decision of the BIPT Council of 8 June 2011 on radio interfaces B14.01, B14.07 and B21.2
- 31/05/2011** Decision of the BIPT Council of 31 May 2011 concerning the granting to Borealis Polymers NV of an authorisation for the operation of a public trunked radio network according to the TETRA standard
- 03/05/2011** Granting to ROW 44 Inc of a temporary authorisation 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
- 28/03/2011** Decision of the BIPT Council of 28 March 2011 regarding Belgacom NV's request for the transfer of the entire number series 0900 33 from Belgacom to Verizon
- 28/03/2011** Decision of the BIPT Council of 28 March 2011 regarding Telenet NV's request for the transfer of the number series 016 32, 016 33, 016 34 and 016 37 from Belgacom to Telenet
- 15/03/2011** BIPT Decision of 15 March 2011 on the definition of markets, the analysis of terms of competition, the identification of SMP operators and the definition of appropriate obligations for market 10, selected in the European Commission Recommendation of 11 February 2003: transit services in the fixed public telephone network
- 01/03/2011** Decision of the BIPT Council of 1 March 2011 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
- 08/02/2011** Decision of the BIPT Council of 8 February 2011 on the composition of the Board referred to in the Royal Decree of 5 May 2006 regarding a conciliation procedure before the Belgian Institute for Postal Services and Telecommunications for the year 2011
- 08/02/2011** Decision of the BIPT Council of 8 February 2011 on the extension of the temporary licence granted to Onair Switzerland sarl 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
- 04/02/2011** Decision of the BIPT Council of 4 February 2011 regarding the WBA VDSL2 profiles based on VDSL2 17 MHz
- 18/01/2011** Decision of the BIPT Council of 18 January 2011 on the reallocation of a number of number blocks



## 4.2. CONSULTATIONS

Date	Title
23/11/2011	Draft decision of the BIPT Council of 23 November 2011 on the Belgian policy regarding extraterritorial offices of exchange
22/11/2011	Consultation held by the BIPT Council on 16 November 2011 at the request of the private office of the Minister of Enterprise and Administrative Simplification concerning the draft Royal Decrees implementing the emergency services fund
21/11/2011	Consultation held by the BIPT Council on 21 November 2011 concerning a number of present and future challenges with regard to calls to emergency services that send help on the scene
18/11/2011	Draft decision of the BIPT Council of 17 November 2011 concerning the approval of the alternative offer of Belgacom to the corrective measure 'multicast' imposed by the CRC decision of 1st July 2011 on the analysis of the broadband markets
13/10/2011	Draft communication of the BIPT containing guidelines for infrastructure sharing
7/09/2011	Draft decision of 5 September 2011 regarding the analysis of the market of termination on the public fixed telephone network
29/08/2011	Draft decision of the BIPT Council of 29 August 2011 on the start of the period of validity of the user rights in the 2500-2690 MHz frequency band (4G licence) for the provision of electronic communications services on the Belgian territory
12/08/2011	Consultation held by the BIPT Council on 4 August 2011 on the draft decision of the BIPT Council on monitoring transit times for 2009
11/08/2011	Draft decision concerning the repartition of the 900 MHz, 1800 MHz and 2 GHz bands
11/08/2011	Draft decision of the BIPT Council of 16 November 2011 concerning the use of UMTS and LTE technologies in the 900 MHz, 1800 MHz and 2 GHz bands
5/08/2011	Consultation on the draft Decision of the BIPT Council on radio interfaces B17.1 up to B.17.3
5/08/2011	Consultation of 4 August 2011 on the bill amending the Act of 13 June 2005 on electronic communications in order to combat over-indebtedness resulting from debts related to mobile phone use
13/07/2011	Draft decision of the BIPT Council of 1 July 2011 on the coexistence between 4G operators in the 2500-2690 MHz band and radars in the 2700-2900 MHz band
18/05/2011	Draft decision of the BIPT Council of 12 April 2011 on the methodology to allocate the costs related to the database of the social element of the universal telecommunications service and to the specific calculation elements
5/05/2011	Consultation on the draft decision of the BIPT Council of 14 April 2011 on the determination of the numbering plan for M2M communication
27/04/2011	Consultation on the draft decision of the BIPT Council on radio interfaces B14.01 up to B14.07 and B21.2
28/03/2011	Summary of the answers to the 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
16/03/2011	Consultation on the draft decision for the regulation of mobile voice termination rates of Telenet as MVNO (market 7)
11/03/2011	Draft decision of the BIPT Council of 1 March 2011 regarding the interoperability of CPEs in the frame of the WBA VDSL2 reference offer

<b>28/02/2011</b>	Summary of the answers to the Consultation of 7 September 2010 on the determination of a numbering policy for M2M communication
<b>16/02/2011</b>	Communication of 8 February 2011 regarding the audit of the operational processes at Belgacom
<b>13/01/2011</b>	Consultation at the request of the BIPT Council of 4 January 2011 on the request of Belgacom SA/NV to transfer the entire number series 0900 33 from Belgacom to Verizon
<b>13/01/2011</b>	Consultation at the request of the BIPT Council of 4 January 2011 on the request of Telenet NV to transfer the number blocks 016 32, 016 33, 016 34 and 016 37 from Belgacom SA/NV to Telenet NV

#### 4.3. COMMUNICATIONS

<b>Date</b>	<b>Title</b>
<b>25/11/2011</b>	Communication of the BIPT Council of 9 November 2011 regarding the BRUO and WBA VDSL 2 'end-user line' rental fee tariffs
<b>22/11/2011</b>	Communication concerning the World Radiocommunication Conference 2012
<b>08/09/2011</b>	Communication concerning the World Radiocommunication Conference 2012
<b>30/06/2011</b>	Compatibility study on the impact of LTE/ WiMAX on the radars in the 2700-2900 MHz band
<b>30/06/2011</b>	Communication of 28 June 2011 regarding calls to VAS from mobile networks
<b>07/06/2011</b>	BIPT communicated the ultimate bidding deadline to the candidate for the fourth 3G licence: 27 June 2011, 10 a.m.
<b>01/06/2011</b>	Auction of 4G-licences - Call for applications
<b>15/03/2011</b>	Auction of 3G-licences - Call for applications
<b>08/03/2011</b>	Communication of the BIPT Council concerning the results of the procedure for rights of use in the 3.5 GHz band
<b>03/03/2011</b>	Communication of the BIPT Council of 8 February 2011 regarding the withdrawal of the BIPT communication of 11 February 2004 on services quite distinct from the universal postal service
<b>16/02/2011</b>	Communication of 8 February 2011 regarding the audit of the operational processes at Belgacom
<b>04/01/2011</b>	Communication of the BIPT Council regarding the survey on the universal postal service in Belgium: behaviour and wishes of business users



#### 4.4. OPINIONS

Date	Title
25/10/2011	Opinion of the BIPT Council of 25 October 2011 on the bill amending the act of 13 June 2005 on electronic communications in order to combat over-indebtedness resulting from debts related to mobile phone use
05/10/2011	Opinion of the BIPT Council of 5 October 2011 regarding the amendments of 7 and 12 July 2011 to the bill amending the Act of 13 June 2005 on electronic communications in order to guarantee net neutrality
24/05/2011	Opinion of the BIPT Council of 24 May 2011 on the draft Royal Decree amending the Royal Decree of 10 December 2009 amending the Royal Decree of 7 March 2007 on the notification of electronic communications services and networks
20/01/2011	Opinion of the BIPT Council of 20 January 2011 on the draft Royal Decree amending the Royal Decree of 10 December 2009 amending the Royal Decree of 7 March 2007 on the notification of electronic communications services and networks

#### 4.5. PRESS RELEASES

Date	Title
30/11/2011	BIPT imposes a EUR 250,000 fine on Telenet for neglecting to correctly inform subscribers
28/11/2011	BIPT announces the results of the 4G auction public
19/10/2011	BIPT finds the 5 applications for the 4G auction to be admissible
14/10/2011	5 candidates to participate in the 4G auction
23/09/2011	The Court of Appeal confirms that early 2010 Belgacom neglected to correctly inform its subscribers about price increases for Internet
02/08/2011	BIPT grants fourth 3G licence to Telenet Tecteo Bidco NV
27/07/2011	BIPT imposes a EUR 2.3 million fine on bpost for tariff discrimination
18/07/2011	Television broadcasting and broadband market decisions
27/06/2011	Telenet Tecteo Bidco NV/SA makes a bid on the fourth 3G licence
21/06/2011	The European Commission has not expressed fundamental objections regarding the broadband and broadcasting market analyses
10/05/2011	BIPT finds application for fourth 3G licence to be admissible
29/04/2011	1 candidate for the fourth 3G licence
14/04/2011	E-mail and webspace have to be accessible for another six months following termination of the Internet subscription
16/02/2011	The Brussels Court of Appeal rules in favour of BIPT regarding the regulation of termination rates on mobile networks

## 5. NATIONAL, EUROPEAN AND INTERNATIONAL COOPERATION



Exchanging knowledge and comparing points of view on technological developments are key in enabling people to take the right decisions. BIPT officials maintain strong links with their counterparts working for foreign regulators. Through its active involvement in that respect, BIPT is able to follow and influence certain policies.

### 5.1. FPS ECONOMY, SMES, SELF-EMPLOYED AND ENERGY

BIPT participated actively in the meetings on 'digital strategy' organised by the Directorate-General Telecommunications and Information Society (E9) of the FPS Economy, SMEs, Self-Employed and Energy, together with Fedict, the Belgian Permanent Representation to the European Union and the private office of the Minister of Economy. The main themes discussed during the meetings were:

- › the 'Telecoms Package': BIPT, as agreed, provided Directorate E9 with information regarding the transposition of the directives.
- › network security: the discussions dealt with the mandate of ENISA and its seat.
- › the implementation of the universal service: Belgium has made substantial progress in implementing the universal service in terms of meeting the objectives of the European Commission, namely a speed of 30 Mbps for 100% of the citizens in 2020 and a speed of 2 Mbps or 1 Mbps for respectively 98.5% or 99.8% of the Belgian population. A sensitive issue remains undecided, and that is the social Internet tariff.
- › Directorate E9 is charged with the role of national coordination body for the digital agenda. BIPT will help the Directorate achieve its mission.
- › Connecting Europe Facility (CEF): a budget of EUR 9 billion of European funding is envisaged, of which EUR 7 billion will be allocated to network infrastructure and the rest to services. A first step has been taken in the process of reflection, so that Belgium can submit certain proposals if appropriate.
- › on the sidelines of the negotiations, the development of IPv6 and electronic registered mail were discussed.

### 5.2. BODY OF EUROPEAN REGULATORS FOR ELECTRONIC COMMUNICATIONS (BEREC)

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 aims to contribute to the development of the European internal market for electronic communications by working together to promoting the consistent application of the regulatory framework. The goal is to develop a coherent policy for the benefit of European industry and consumers. BIPT participated very actively in BEREC's activities at every level.



2011 was a dynamic and successful year for BEREC. The revised regulatory framework entered into force in May and the BEREC Office gained full autonomy in September.

The activities of BEREC in 2011 can be divided into different themes.

- › A first activity for BEREC is to issue opinions to the European institutions. Opinions were given to the Commission concerning the universal service and measures to support broadband deployment.

The Commission has also asked BEREC in 2011 to collect information about network neutrality, which can be used as a basis for developing policy on that subject. Together with the Commission, in late 2011, BEREC sent out a questionnaire on network neutrality to operators and other stakeholders. The result of this exercise is important bearing in mind the digital agenda, because if the growth of broadband and broadband services in Europe is to be encouraged, it should first be ensured that consumers and businesses know their rights.

Another issue on which BEREC gave its advice was international roaming. The digital agenda states that the difference between roaming and national tariffs should be reduced to zero in 2015. BEREC not only advised the Commission, but also took part in the dialogue with the European Parliament and the Council. Thanks to the efforts of BEREC, consumers in the EU will benefit from lower roaming rates as from 2012.

- › A second theme is the development of best practices. This is a very important objective, because the cooperation between national regulatory authorities for a coherent regulatory environment is indispensable for achieving the internal market.

BEREC also published a consultation document in September 2011 containing guidelines on net neutrality and transparency. These guidelines emphasize the importance of effective transparency for end-users and the best approach to achieve this. Transparency strengthens the power of the consumers by giving them the possibility to compare tariffs and terms. This puts pressure on market players to offer competitive products.

- › A third activity of BEREC consists of issuing opinions on draft decisions, recommendations and guidelines. BEREC also provides advice on individual decisions by the NRAs in market analyses, market definitions and designation of market power, as part of the so-called 'Article 7 procedures'. The second phase of the Article 7 procedure starts when the Commission expresses serious doubts regarding decisions by individual NRAs. In these cases, BEREC has to issue its opinion to the Commission. In 2011 there were two phase-2 cases.

The completion of the work programme and other duties and functions of BEREC is heavily dependent on the preparatory work by the working groups of experts from all NRAs. The positive role that BEREC plays for the industry and consumers is derived from the collective know-how and expertise of all national regulatory authorities in the various working groups of experts. There is also the support staff of the BEREC Office in Riga, which provides professional and administrative support. BIPT has played a role in almost all working groups.

### 5.3. EUROPEAN REGULATORS GROUP FOR POSTAL SERVICES (ERGP)

Now that postal markets are being liberalised throughout Europe, stronger collaboration between independent national regulatory authorities is becoming increasingly important. In order to develop best practices in the field of regulation, the European Regulators Group for Postal Services (ERGP) becomes an integral part of an internal postal market and becomes the driving force to ensure that European citizens have 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.

In 2011 the European Regulators Group for Postal Services successfully completed its first full year of operation with a plenary meeting in Paris on 24 November 2011. During the plenary session, the heads of the national regulatory authorities approved two ERGP consultation documents as well as two ERGP reports, namely:

- › the draft report for consultation on common cost allocation in the internal cost accounting system<sup>49</sup>;
- › the draft report for consultation on net cost calculation and evaluation of a reference scenario<sup>50</sup>;
- › the report on the quality of service and the end-user satisfaction<sup>51</sup>;
- › the report on indicators for the postal market<sup>52</sup>.

The latter two documents were drafted by the working group 'End-user satisfaction and monitoring of market outcome'. This group working is led by BIPT together with the Portuguese regulator, ICP-ANACOM.

During the plenary ERGP meeting, the election of the ERGP Chair for 2012 and 2013 was held. The Chairman of the BIPT Council, Luc Hindryckx, was elected as ERGP Chair for 2013 and Vice-Chair for 2012 and 2014. This year the ERGP will be led by Göran Marby, Director-General of the Swedish regulator PTS, together with the two ERGP Vice-Chairs, namely Marie-Laure Denis, member of the Board of ARCEP, and Luc Hindryckx, Chairman of the BIPT Council.

Finally, it was also during this plenary session that the draft 2012 work programme was approved for consultation. The implementation of the 2012 work programme is dependent on the work of the ERGP expert working groups. BIPT will also play a very active part in the activities of the expert working groups in 2012.

#### 5.4. EUROPEAN COMMITTEE FOR POSTAL REGULATION (CERP)

In 2011, BIPT participated in the CERP plenary meetings in Dublin and Montreux. The main points of discussion were the state of affairs within the ERGP, setting new rules for the elections and the reports of the project groups 'Sustainable Development', 'Policy', 'Universal Service' and 'Market Surveillance', and information exchange between regulators/ministries. The CERP has decided to focus entirely on the two project groups 'UPU' and 'Policy'. Germany has been re-elected as Chairman of CERP, while Norway and Poland respectively have been elected as Vice-Chairman and Chairman of the project groups 'UPU' and 'Policy'.

The Dublin Forum concentrated on the electronic services: '*Electronic Postal Services - A scary story or the only way to survive?*'. During this meeting the following issues were addressed:

- › Electronic postal service: is it a postal service or an electronic communication service with elements of postal and IT services?
- › Is there a need for specific ex ante regulation?
- › Interoperability between different service providers
- › Quality of service
- › Will electronic services compete with and/or replace the traditional postal services?

<sup>49</sup> [http://ec.europa.eu/internal\\_market/ergp/documentation/consultations\\_en.htm](http://ec.europa.eu/internal_market/ergp/documentation/consultations_en.htm)

<sup>50</sup> [http://ec.europa.eu/internal\\_market/ergp/documentation/consultations\\_en.htm](http://ec.europa.eu/internal_market/ergp/documentation/consultations_en.htm)

<sup>51</sup> [http://ec.europa.eu/internal\\_market/ergp/documentation/documents\\_en.htm](http://ec.europa.eu/internal_market/ergp/documentation/documents_en.htm)

<sup>52</sup> [http://ec.europa.eu/internal\\_market/ergp/documentation/documents\\_en.htm](http://ec.europa.eu/internal_market/ergp/documentation/documents_en.htm)





The forum held at the meeting in Montreux examined the main interests of the political policy makers and European regulators, looking ahead to the Congress of the UPU that will be held in Doha in 2012. The following issues were discussed:

- › reform of the Union;
- › separation between the governmental and operational functions within the UPU;
- › simplified customs procedures for postal services;
- › application of the UPU Acts within the European Union;
- › regulation of terminal dues;
- › preparation of the Doha Congress.

BIPT still remains an active member of the CERP, but without taking on as much responsibility as in the past.

#### 5.5. POSTAL DIRECTIVE COMMITTEE AND OTHER EC ACTIVITIES

BIPT continues to monitor developments in the context of the application of the Postal Directive and attended the meetings of the Postal Directive Committee. In this committee the following elements were discussed:

- › follow-up of the transposition of Postal Directive 2008/6/EC;
- › instruments in the field of consumer protection, including the ruling of the ECJ on the question referred to the ECJ by the Brussels Court of Appeal for preliminary ruling on the formal notice served by BIPT on Express Line<sup>53</sup>;
- › revision of the framework for services of general economic interest;
- › debriefing on ERGP activities.

Furthermore, BIPT participated in the workshops of the European Commission organized by the Commission at which Rand Europe, commissioned by the Commission, undertook a study about appropriate methods for measuring consumer preferences<sup>54</sup> and FTI Consulting, also commissioned by the Commission, carried out a study on the delivery of intra-Community parcels<sup>55</sup>.

In addition, BIPT attended the plenary meeting of the European Committee for Standardisation of postal services in Lyon and Berlin. CEN/TC 331 'Postal Services' is harmonising quality standards at European level. This standardisation is an indispensable tool to guarantee interoperability between the various national networks and provision of an efficient universal service in the European Union. BIPT mainly monitors the adaptations to the existing European quality standards.

Finally, BIPT also took part in a new initiative by the European Commission, namely 'Postal Users Forum' launched by European Commissioner for Internal Market, Mr Barnier.

#### 5.6. COMMUNICATIONS COMMITTEE (COCOM)

In the course of 2011 activities under COCOM (Communications Committee) were mainly focused on the transposition of the 'Telecoms Package', the extension of the Universal Service (US) to mobile telephony or to broadband Internet.

The European Commission presented its report on the results of public consultation and the third review of the scope of universal service, roaming and broadband development. The ENISA issue was examined further, because the problem of the headquarters and the duration of the mandate of the Agency remains topical.

<sup>53</sup> Case C-148/10 Express Line.

<sup>54</sup> [http://ec.europa.eu/internal\\_market/post/studies\\_en.htm](http://ec.europa.eu/internal_market/post/studies_en.htm)

<sup>55</sup> [http://ec.europa.eu/internal\\_market/post/studies\\_en.htm](http://ec.europa.eu/internal_market/post/studies_en.htm)

Other topics include the PSI Directive<sup>56</sup>, the Open Data package relating to the re-use of public data and the implementation of Article 5.3 of the e-Privacy Directive. The Commission is considering the establishment of a clear procedure that Member States have to follow when they notify the Commission of the measures they intend to impose on operators requiring them to meet minimum standards of quality with regard to network neutrality in accordance with point 3 of Article 22 of the Universal Service Directive 2002/22/EC.

Finally, the issues associated with the emergency services (112 and 116) were raised.

#### 5.7. RADIO SPECTRUM POLICY GROUP (RSPG)

In the Radio Spectrum Policy Group (RSPG), the work in 2011 focused mainly on preparing a number of opinions and reports. Thus an opinion on collective use of spectrum and other approaches for shared use were put forward.

Work was also done on an opinion on the review of spectrum use, a report on improving broadband coverage and a report on the future of radio broadcasting and its spectrum implications.

Additionally, an opinion concerning the coordination of the European spectrum interests with regard to the ITU World Radio Conference 2012 in Geneva and a common RSPG-BEREC report on infrastructure and spectrum sharing in mobile/wireless networks were adopted.

The RSPG, that is among other things entrusted with advising the European Commission (Decision 2006/622/EC) on the preparation of the multi-annual plan for spectrum management and proposing joint management goals to the European Parliament and the European Council, kept a close watch on the discussions in the Council's working group.

Given their interests concerning the frequencies used for broadcasting, the 3 Communities systematically receive all RSPG documents.

#### 5.8. RADIO SPECTRUM COMMITTEE (RSC)

BIPT continued to monitor the activities of this committee and attended all its meetings. A number of spectrum harmonization measures were prepared and adopted.

With reference to the evaluation of Decision 2009/766/EC on harmonization of the 900 MHz and 1800 MHz frequency bands for terrestrial systems capable of pan-European electronic communications services in the European Union, a new decision was adopted. This implementing decision 2011/251/EU allows, in addition to GSM, both the use of UMTS and LTE/WiMAX technologies at 900 MHz and 1800 MHz.

Concerning the monitoring of the harmonization of the 24 GHz range radio spectrum band for the time-limited use by short-range radar equipment (automotive short-range radar systems or collision avoidance radars for vehicles) in the Community, the implementing decision of the Commission 2011/485/EU was approved.

The RSC adopted the annual review of the Annex to Decision 2006/771/EC on harmonization of the radio spectrum for use by short-range devices and this is published as European Commission Implementing Decision 2011/829/EU.

The RSC has also given the green light for a new mandate to the CEPT on the development of a possible extension of Commission Decision 2008/294/EC on harmonised conditions of spectrum use for the operation of mobile communication services on aircraft (MCA services). The mandate calls on CEPT to carry out technical studies and designate the most appropriate technical criteria for the use of 3G and other technologies on board aircraft in the 2 GHz spectrum and other frequency bands.

<sup>56</sup> Public Sector Information.



Attention was also paid to the possible compatibility problems between the use of LTE/WiMAX technologies in the 2.5 – 2.69 GHz band and the primary aeronautical radars in the 2.7 GHz band.

#### **5.9. EUROPEAN CONFERENCE OF POSTAL AND TELECOMMUNICATIONS ADMINISTRATIONS (CEPT)**

In the context of CEPT, the Spectrum Strategy Cell of the Assignments Pool attended the plenary meetings of the Electronic Communications Committee (ECC), which acts as an umbrella organisation for activities concerning spectrum and numbering in Europe, and the activities of the working groups on Frequency Management (FM), the Conference Preparatory Group (CPG) preparing for the ITU World Radio Conference (WRC-12) and the RA working group (Radio Affairs). During these meetings, a number of ECC decisions and ECC recommendations were prepared and adopted.

BIPT chairs the ECC working group 'Numbering and Networks'. This working group has the following objectives:

- › harmonisation of numbers, numbering plans and numbering policy in Europe, where relevant;
- › forward-looking numbering plan management, namely the development of new numbering plans and regulation to take account of new services;
- › increasing customer protection;
- › facilitating exchange of information and best practices among regulators to increase the effectiveness of numbering policy;
- › adoption of common positions in the ITU concerning numbering.

In 2011 progress was made in several areas that are important for the industry and users. The main achievements are listed here.

Under the chairmanship of this working group, by putting forward a discussion note, BIPT gave the impetus for discussion about the long-term evolution of numbering, naming and addressing of electronic communications in 2012-2022. This Green Paper should result in a roadmap with a concrete action plan for the next 10 years on numbering for the Electronic Communications Committee (ECC).

An ECC recommendation aiming at a common European approach for M2M numbering was adopted. This aims at ensuring that the roll-out of M2M services in Europe occurs with the greatest possible degree of harmonization, but taking into account the individuality and diversity of the various national numbering plans.

Likewise, a study report and a recommendation about best practices in Europe regarding number portability were adopted by the working group. This enables the various countries to review their national systems for number portability objectively and make improvements where necessary.

#### **5.10. UNIVERSAL POSTAL UNION (UPU)**

BIPT continued its mission to represent Belgium in the UPU Council of Administration and actively participated in the work of the Postal Operations Council by attending the meetings that took place in April and November 2011.

In the context of the Presidency of the project groups 'Reform of the Union' and 'Acts of the Union' BIPT committed itself to reaching decisions on the various proposals that are due to be submitted to the Congress.

A large number of decisions were taken in that year. At the request of BIPT, the Council of Administration adopted proposals concerning the organization of a UPU conference on the issues relating to postal regulation, UPU membership of the International Court of Justice and the continuation of the reform

activities after the next Congress. Other proposals were approved too, including the development of a new structural model of the UPU based on the recommendations by PwC<sup>57</sup>, measures that should be taken to manage the budget of the UPU more efficiently and a policy for electronic document management to improve decision-making by UPU bodies.

As far as the project group 'Acts of the Union' is concerned, the draft document of the Congress concerning the review of the General Regulations and the associated draft resolution to be submitted to the next Congress were approved.

Moreover, BIPT continued to monitor the progress of the Strategic Plan. It focused on issues such as terminal dues and network interconnectivity. Due to the prolonged absence of a government, the procedure for Belgian approval of the Acts of the Congress is still not completed.

#### 5.11. ICANN/GAC (GOVERNMENTAL ADVISORY COMMITTEE)

ICANN (Internet Corporation for Assigned Names and Numbers) receives input from national governments via the Governmental Advisory Committee (GAC). The key role of the GAC is to provide advice to ICANN on issues of public policy, and especially where there may be an interaction between ICANN's activities or policies and national laws or international agreements. The GAC usually meets three times a year in conjunction with ICANN meetings, where it discusses issues with the ICANN Board and other ICANN supporting organisations, such as the ccNSO (organization of the national domain name registries). Currently, the main theme is the discussion of the rules governing the introduction of new generic top level domains including .vlaanderen, .brussels and .gent, just to mention a few examples. BIPT has a seat on the GAC.

#### 5.12. REVISION OF THE REGIONAL ARRANGEMENT CONCERNING THE RADIOTELEPHONE SERVICE ON INLAND WATERWAYS (RAINWAT)

A complete revision of the Regional Arrangement concerning the Radiotelephone Service on Inland Waterways (signed in 2000) has been completed. The revised Regional Arrangement will be signed on 18 April 2012. The Regional Arrangement is being extended to incorporate radio navigation in radiocommunications. The use of channels in the 17 countries that signed the previous arrangement will be made clearer. BIPT also started a procedure to transpose the arrangement into Belgian law. In terms of ATIS and power reduction, there are no fundamental changes for the end-user.

Please refer to [www.rainwat.bipt.be](http://www.rainwat.bipt.be) for the texts of the Regional Arrangement in the official languages of the Committee (French, English and German) or to the BIPT website ([www.bipt.be](http://www.bipt.be)) for a Dutch version. The Rainwat website also provides links to the administrations of the 17 countries that have signed the Regional Arrangement.

#### 5.13. INDUSTRIAL PLANNING AND COMMUNICATIONS SYSTEMS GROUP OF NATO'S CIVILIAN EMERGENCY PLANNING

BIPT led the activities of the Communications Expert Group of the IRCSG<sup>58</sup> (Communications) until June 2011. The IRCSG concentrates on themes related to the planning of exceptional situations and crises as they affect electronic communications and postal services and makes recommendations about this. In particular, it looks at the assistance that the civilian sectors of society can offer in support of missions carried out by NATO, e.g. to support first responders in the field of electronic communications in a crisis area or the distribution of emergency medication to the population by postal services. On the other hand, the assistance that NATO can provide in preventing and combating crises in the civilian world, such as securing or transporting relief supplies and emergency services and NGOs in a crisis area, is also examined.



<sup>57</sup> PriceWaterhouseCoopers  
<sup>58</sup> Industrial Resources and Communications Services Group.

## 6. LEGAL PROCEEDINGS IN WHICH BIPT IS A PARTY



### Appeals were lodged against three BIPT decisions and two decisions by the Conference of Regulators of the electronic Communications sector (CRC) in 2011:

- › an action for annulment and suspension was brought by the cable operators against the CRC decision of 1 June 2011 on the analysis of the television broadcasting market. The operators Belgacom, KPN and Mobistar became parties to the case.
- › Belgacom brought an action for annulment against the CRC decision of 1 July 2011 on the analysis of the markets for broadband Internet.
- › An action for annulment against the BIPT decision of 11 August 2011 concerning the reference offers BRUO/BROBA/WBA VDSL2/BROTSoLL 2010 (Open Calendars, Certified Technicians and BROBA Dedicated Ethernet VLAN) was initiated by Belgacom but placed on the cause list.
- › An action for annulment against the BIPT decision of 14 July 2011 concerning the granting to Telenet Bidco Tecteo of rights to use the frequency bands 1950.1 to 1964.9/2140.1 to 2154.9 MHz (3G licence) was brought by private individuals.
- › An action for annulment against the BIPT decision of 20 July 2011 on the conventional tariffs of bpost for 2010 was brought by bpost.

### In 2011, five judgments were handed down:

- › Judgment by the Council of State of 8 April 2011  
At the request of Belgacom, the Council of State annulled the BIPT decisions of 11 June 2002, 7 May 2002, 9 August 2002 and 14 January 2003 on the fixed call termination rates for Telenet, due to inadequate substantiation of the grounds.
- › Judgment by the Court of Appeal of Brussels of 29 June 2011  
This judgment concerned the BRUO Rental (ULL) Fee 2010 decision of 3 August 2010 where Belgacom and BIPT were the parties. The Court of Appeal upheld the cost model and an essential part of the implementation of the decision that imposes the cost basis.  
However, the Court partly annulled a number of minor points of the decision (because BIPT had failed to index-link the overhead expenses of the cost model of 2007 or take account of the collective bonuses to determine the mark-up of overheads). Following this annulment, BIPT adopted a renewal decision on 9 November 2011.
- › Judgment by the Court of Appeal of Brussels of 14 September 2011  
This judgment was related to a claim against the decision of the BIPT Council of 28 June 2010 – administrative fine imposed on Belgacom for non-compliance with Article 108, § 2, of the Electronic Communications Act of 13 June 2005.  
The court dismissed the action for annulment on the principle of the fine, but reduced the fine to EUR 500,000, taking into account mitigating circumstances.

- › Judgment by the Court of Appeal of Brussels of 15 February 2011  
This judgment concerned the decision imposing a pure LRIC model for the determination of MTRs. The action concerning the suspension sought by KPN and Mobistar of the decision of 29 June 2010 on the analysis of market 7, was dismissed. A judgment on the merits is expected in 2012.
- › Judgment by the Council of State of 26 January 2011  
This relates to an action for annulment by Belgacom against the BRUO 2002 opinion where a reference offer was imposed for the provision of backhaul leased lines and an opinion on BROBA I and II (backhaul leased capacity price). The Council of State dismissed the action.

**Actions were withdrawn in the following cases:**

- › BIPT opinion of 26 November 2002 on migrations (BRUO 2002) – Withdrawn by Belgacom
- › BIPT opinion of 9 December 2002 on migrations (BROBA 2002) – Withdrawn by Belgacom
- › BIPT decision of 29 September 2010 on the WBA VDSL2 profiles based on VDSL2 17 MHz – Withdrawn by Belgacom
- › BIPT decision of 10 August 2010 renewing the decision of 11 August 2006 on the analysis of market 16: voice call termination on individual mobile networks – withdrawn by KPN GB
- › Finally, an appeal against the BIPT decision of 22 July 2009 which aims to impose a deadline on KPN Group for putting an end to the non-compliance with the obligations of BASE for the provision of 3G services became without merit.





Practical information

5



MOVING FORWARD TO A STRONG & INDEPENDENT BIPT



# 1. TEXTS PUBLISHED IN THE BELGIAN OFFICIAL JOURNAL IN 2011 WITH A VIEW TO AMENDMENT AND/OR IMPLEMENTATION OF THE ACTS OF 17 JANUARY 2003 AND OF 13 JUNE 2005



31 May 2011 – Act pertaining to various provisions on telecommunications  
Belgian Official Journal – 21 June 2011

14 November 2011 – Act amending the Act of 13 June 2005 on electronic communications as regards accessibility of the emergency services  
Belgian Official Journal – 2 December 2011

Date	Belgian Official Journal	Legal basis of the 2003 Act	Title
05/07/2011	03/08/2011	26	Ministerial Decree on conditions for appointment to the rank of technician at the Belgian Institute for Postal Services and Telecommunications

Date	Belgian Official Journal	Legal basis of the 2005 Act	Title
22/12/2010	25/01/2011	18, § 1, 20, § 1, 30, 51	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 October 1997 on the establishment and operation of DCS-1800 mobile telephone networks and the Royal Decree of 18 January 2001 laying down the specifications and the procedure for granting licences for third-generation mobile telecommunications systems
22/12/2010	25/01/2011	18, 20, § 1, 30, 39, § 2	Royal Decree on radio access to the 2500-2690 MHz frequency band

<b>08/02/2011</b>	23/02/2011	127, § 1, L1, 2°, L2 and 2; 125, § 2	Royal Decree amending the Royal Decree of 9 January 2003 implementing Articles 46bis, § 2, subsection 1, 88bis, § 88, paragraphs 1 and 3, and 90quater, § 1, paragraph 3 of the Code of Criminal Procedure and Article 109ter, E, § 90, of the Act of 21 March 1991 on the reform of certain public economic undertakings
<b>09/02/2011</b>	21/06/2011	134, § 2 para 1	Royal Decree establishing the Ethics Code for Telecommunications
<b>31/05/2011</b>	21/06/2011	9, 29	Royal Decree amending the Royal Decree of 10 December 2009 amending the Royal Decree of 7 March 2007 on the notification of electronic communications services and networks

## 2. LIST OF ABBREVIATIONS USED



<b>ADSL:</b> Asymmetric Digital Subscriber Line
<b>AIESH:</b> Association Intercommunale d'Électricité du Sud-Hainaut
<b>ATM:</b> Asynchronous Transfer Mode
<b>BEREC:</b> Body of European Regulators for Electronic Communications
<b>BRIO:</b> Belgacom Reference Interconnect Offer
<b>BROBA:</b> Belgacom Reference Offer Bitstream Access
<b>BROTSoLL:</b> Belgacom Reference Offer for Terminating Segments of Leased Lines
<b>BRUO:</b> Belgacom Reference Unbundling Offer
<b>CA:</b> Council of Administration (of the Universal Postal Union)
<b>CB:</b> Citizens' Band
<b>CEPT:</b> Conférence européenne des administrations des postes et télécommunications (European Conference of Postal and Telecommunications Administrations)
<b>CERP:</b> Comité européen de régulation postale (European Committee for Postal Regulation)
<b>COCOM:</b> Communications Committee
<b>Comixtelec:</b> Joint Commission on Telecommunications
<b>CPS:</b> Carrier Pre-Selection
<b>CRC:</b> Conference of Regulators of the electronic Communications sector
<b>CSA:</b> Conseil supérieur de l'audiovisuel (High Council for the Audiovisual Sector)
<b>CSC:</b> Carrier Select Code
<b>DNS:</b> Domain Name System
<b>DSLAM:</b> Digital Subscriber Line Access Multiplexer
<b>DVB-T:</b> Digital Video Broadcasting – Terrestrial
<b>ECC:</b> Electronic Communications Committee
<b>EMC:</b> Electromagnetic compatibility
<b>ENISA:</b> European Network and Information Security Agency
<b>ERGP:</b> European Regulators Group for Postal Services
<b>ERO:</b> European Radiocommunications Office
<b>ESA:</b> European Space Agency
<b>ETSI:</b> European Telecommunications Standards Institute
<b>FTE:</b> Full-time equivalent
<b>FDD:</b> Frequency Division Duplex
<b>GOC:</b> General Operator's Certificate
<b>GMDSS:</b> General Maritime Distress and Safety System
<b>GSM:</b> 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/Aeronautical Compatibility  
**LRIC:** Long-Run Incremental Cost  
**LTE:** Long Term Evolution  
**M2M:** Machine to Machine  
**MSS:** Mobile Satellite Services  
**MTR:** Mobile Termination Rate  
**NCS:** Service national de contrôle du spectre/Nationale dienst voor de Controle op het Spectrum  
(national spectrum monitoring department)  
**NGN:** Next Generation Network  
**NGA:** Next Generation Access  
**NRA:** National Regulatory Authority  
**PNCT/NOT:** Plate-forme nationale de concertation télécommunication/Nationaal Overleg-platform  
Telecommunicatie (national platform for consultation on telecommunications)  
**PSI:** Public Sector Information  
**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  
**STT:** Social telephone tariff  
**TCAM:** Telecommunications Conformity Assessment and Market Surveillance  
**T-DAB:** Terrestrial Digital Audio Broadcasting  
**TDD:** Time Division Duplex  
**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

### 3. USEFUL ADDRESSES



#### **BIPT**

Ellipse Building - Building C  
Koning Albert II-laan 35  
Boulevard du Roi Albert II 35  
1030 Brussels  
Tel. 02 226 88 88  
Fax 02 226 88 77  
[info@bipt.be](mailto:info@bipt.be)  
[www.bipt.be](http://www.bipt.be)

#### **Consultative Committee on Telecommunications Secretary to the Committee**

Ellipse Building - Building C  
Koning Albert II-laan 35  
Boulevard du Roi Albert II 35  
1030 Brussels  
Tel. 02 226 87 58  
Fax 02 223 88 77  
[piet.steeland@bipt.be](mailto:piet.steeland@bipt.be)  
[www.cct-rct.be](http://www.cct-rct.be)

#### **FPS Economy, SMEs, Self-Employed and Energy**

Vooruitgangsstraat 50  
Rue du Progrès 50  
1210 Brussels  
Tel. 0800 120 33  
Fax 0800 120 57  
[info.eco@economie.fgov.be](mailto:info.eco@economie.fgov.be)

#### **Consultative Committee on Postal Services Secretary to the Committee**

Ellipse Building - Building C  
Koning Albert II-laan 35  
Boulevard du Roi Albert II 35  
1030 Brussels  
Tel. 02 226 87 65  
Fax 02 223 88 77  
[corinne.cumps@bipt.be](mailto:corinne.cumps@bipt.be)

#### **Office of the Ombudsman for Telecommunications**

Bischoffsheimlaan 29-35  
Boulevard Bischoffsheim 29-35  
1000 Brussels  
Tel. 02 223 09 09  
Fax 02 219 86 59  
[klachten@ombudsmantelecom.be](mailto:klachten@ombudsmantelecom.be)  
[www.ombudsmantelecom.be](http://www.ombudsmantelecom.be)

#### **Competition Authority North Gate**

Koning Albert II-laan 16  
Boulevard du Roi Albert II 16  
1000 Brussels  
Tel. 02 277 52 72  
Fax 02 277 53 23  
[raco@economie.fgov.be](mailto:raco@economie.fgov.be)  
<http://economie.fgov.be/en/entreprises/competition/>

#### **Office of the Ombudsman for the Postal Sector**

Koningsstraat 97/15  
Rue royale 97/15  
1000 Brussels  
Tel. 02 221 02 20  
Fax 02 221 02 44  
[info@omps.be](mailto:info@omps.be)  
[www.omps.be](http://www.omps.be)



**BIPT**  
ELLIPSE BUILDING - BUILDING C  
Boulevard du Roi Albert II 35  
1030 Brussels

Phone 02 226 88 88  
Fax 02 226 88 77  
info@bipt.be  
www.bipt.be

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