



## EUROPEAN COMMISSION - PRESS RELEASE

### **Digital Agenda: Commission concerns on aspects of Belgian regulators' proposal to regulate broadcasting and (to a lesser extent) broadband markets**

Brussels, 21 June 2011 - The European Commission has expressed a number of concerns on a proposal by the Belgian audiovisual regulators to regulate broadcasting services in Belgium. It has also raised some questions on the Belgian telecommunications regulator's proposal to regulate broadband access. In particular, the Commission is asking the Belgian regulators to take full account of market developments in both markets and to further substantiate and justify its reasoning with regard to the broadcasting market. The Commission's role is to oversee the details of remedies proposed by national telecoms regulators to address competition problems so as to ensure that customers and businesses are able to benefit from a fair and competitive single EU telecoms market, and that operators have the regulatory certainty they need to confidently operate EU-wide.

The plans would oblige Belgacom and cable operators to allow alternative operators to compete more effectively in the markets for both cable and the xDSL (where data is transmitted over telephone networks).

Under the proposed measure, Belgacom would have to give access for competitors to its broadband network (using telephone lines) and the cable operators, Telenet, Brutélé, Numéricable, Tecteo and AIESH would have to give access for competitors to their cable networks.

Neelie Kroes, European Commission Vice President for the Digital Agenda said "I fully share the objective of the Belgian audiovisual and telecoms regulators to enhance competition for the benefit of the Belgian consumers, who are entitled to more choice and lower prices. However, regulators have to carefully examine market developments and avoid imposing disproportionate obligations on market operators, as this may create unnecessary burdens and ultimately stifle investment and innovation. The Commission has therefore asked the Belgian regulators to carefully examine the competitive conditions in the markets concerned and provide further evidence for their proposed measures".

## **Belgian regulators' proposals**

In Belgium, some 80% of households receive their TV services from cable operators. While IPTV (television over the internet) has managed to acquire a considerable number of customers, alternative platforms such as satellite, digital terrestrial and mobile TV have not managed to gain a strong foothold in Belgium. The Belgian regulators consider that each of the Belgian cable operators has significant market power in the broadcasting markets corresponding to their network area. With the proposed regulation of cable networks, these alternative platforms should be able to take up analogue and digital transmission as well as broadband services over the cable platform and further develop their own digital offers, ultimately providing more choice for consumers. For this purpose, the Belgian regulators propose in particular to impose on cable operators an obligation to offer alternative broadcasting operators:

- to resell their analogue TV programming,
- to access their digital TV platform and
- to resell their broadband internet products (the two latter obligations would not however extend to Belgacom).

The proposed regulation of the Belgian wholesale infrastructure and broadband access markets would continue to allow alternative operators to enter the retail broadband market. As in the vast majority of EU Member States, the largest network operator, Belgacom, is found to have significant market power on both these markets. As a result it would have to grant access to its network and provide a multicast service to alternative operators which should help them to provide, *inter alia*, IPTV over Belgacom's broadband network.

## **Commission comments**

The Commission has expressed a number of concerns about the Belgian regulators' proposals.

In particular, it has criticised the regulators' analysis of the broadcasting markets. It has also asked the regulators to take better account of market developments in the light of recent entry of competitors into the market (in particular, Belgacom's IPTV), the trend towards multi-play and converged broadband-broadcasting offers and the proposed regulation of Belgacom (which should allow third parties to offer both broadband and IPTV services over Belgacom's network).

The Commission further asked the regulators to justify better the proportionality of the obligation on cable operators to provide an analogue resale offer, also in the light of the declining importance of analogue TV. Moreover, the Commission has asked the Belgian regulators to justify the proposed obligation to provide such access also to Belgacom, which is quite successfully developing its IPTV and has a strong presence in the neighbouring telecom markets.

Concerning the broadband markets, the Commission invited the Belgian regulators to ensure that the proposed regulation does not prevent access to offers over next generation fibre networks and to take into account the competitive pressure exercised at retail level by the cable operators.

## Procedures

On 20 May 2011, the Belgian Conference of Electronic Communications Sector Regulators (CRC) notified the Commission, as required by Article 7 of the EU Telecoms Framework Directive, of draft decisions on the markets for wholesale infrastructure and broadband access and on the retail market for broadcasting services in Belgium.

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

The Commission has sent the "comments letters" to the CRC under the "[Article 7 procedure](#)" procedure ([MEMO/08/620](#)). This procedure leaves considerable scope to national telecoms regulators on how to achieve effective competition, but requires them to notify draft regulatory measures to the Commission. Under the rules applicable to Member States' regulatory remedies notified to the Commission before 25<sup>th</sup> May 2011 (as in this case), the Commission may make comments of which the national telecoms regulators are required to take utmost account.

In the case of notifications of regulatory measures received after 25 May 2011, the EU's revised telecoms rules apply. The revised rules, and more particularly the new Article 7a, grants the Commission, in cooperation with the Body of European Regulators for Electronic Communications (BEREC), extra powers of oversight on the competition remedies for the telecoms markets. In practice, should the Commission, in consultation with BEREC, consider that a draft remedy notified by a national regulator would create a barrier to the single market, the Commission can proceed to an in-depth examination and ultimately issue a recommendation to the national regulator to amend or withdraw its planned remedy (see [MEMO/11/321](#)).

The Commission letter will be available at:

<http://circa.europa.eu/Public/irc/info/ecctf/library?l=/commissionsdecisions&vm=detailed&sb=Title>

Digital Agenda website: <http://ec.europa.eu/digital-agenda>

Neelie Kroes' website: [http://ec.europa.eu/commission\\_2010-2014/kroes/](http://ec.europa.eu/commission_2010-2014/kroes/)

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