

## **The Commission issued comments on the proposed regulation of the Belgian broadband and broadcasting markets**

The European Commission has issued comments on the Belgian regulator's (CRC's) proposed regulation of for the telecom company Proximus and regional cable operators active in the broadband and broadcasting markets in Belgium.

The European Commission has commented on the proposals of the Conference of Belgian telecom regulators (CRC) – how to regulate the Belgian broadband and broadcasting markets.

The regulator assessed the competitive conditions on the retail broadband and broadcasting markets. It found that the market shares are distributed among a limited number of operators and that prices are above competitive levels. The regulator concludes therefore that it is necessary to impose wholesale regulation on the main operators active in the market – Proximus, and the regional cable operators Telenet, Nethys and Brutélé (the two latter operate at retail level under the 'VOO' brand) – to tackle these competition problems.

CRC proposes to oblige Proximus and the regional cable operators to provide access to their respective networks, so that access-seekers who do not own a fixed network can compete with them by providing fixed telecommunications services to Belgian households.

CRC considers that wholesale access on Proximus and on the cable networks are not substitutable products. Therefore, it defines two separate wholesale 'central access' markets for each of the two types of network infrastructure (copper/fibre on one hand, coaxial cable on the other). On each of these markets, CRC identifies an operator with 'significant market power' which will be regulated. Concretely, CRC obliges Proximus to open up the fibre network it is in the process of rolling out in various parts of Belgium. In a similar manner, Telenet, Nethys and Brutélé are also obliged to continue to provide wholesale access to their coaxial cable network, which is currently being used by Orange.

The Commission commented on the way CRC defined the relevant wholesale 'central access' markets, arguing that it is normally possible for alternative operators to switch between different networks if commercial access conditions change and that it would therefore have been more appropriate to include access to both types of network as part of the same market. However, the Commission did not block CRC's measure because the regulator demonstrated, by way of a supplementary joint dominance analysis which the Commission accepts, that there are competition problems as regards coordinated refusal of access to networks on reasonable terms. This analysis, favoured by the Commission, would result in similar regulatory outcomes.

The Commission also provided views on the long-term dynamics of the Belgian broadband and broadcasting markets, as well as on certain technical aspects of the pricing remedies imposed by CRC.

CRC will now have to take utmost account of the Commission's comments in the preparation of its final measures, to be published in the coming months.

## **Background**

The EU Regulatory Framework for electronic communications requires National Regulatory Authorities (NRAs) to review national telecoms markets regularly and assess the need for ex-ante regulatory remedies to foster competition. NRAs are required to determine appropriate regulatory measures to be imposed on operators with SMP in these markets and notify such measures to the Commission under Article 7 of the Framework Directive.

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