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Brussels, 13.VII.2009

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<p>In the published version of this decision, some information has been omitted, pursuant to articles 24 and 25 of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty, concerning non-disclosure of information covered by professional secrecy. The omissions are shown thus [...].</p>	<p>PUBLIC VERSION WORKING LANGUAGE This document is made available for information purposes only.</p>
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Subject: State aid No C 20/2009 (ex N 763/2002) – Belgium

La Poste

Sir,

The Commission wishes to inform Belgium that, having regard to the annulment by the Court of First Instance ("CFI") of its decision of 23 July 2003 and having examined the information supplied by your authorities on the measures referred to above, it has decided to initiate the procedure laid down in Article 88(2) of the EC Treaty.

HE Karel DE GUCHT
Minister of Foreign Affairs
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1. PROCEDURE

1.1. Commission decision of 2003 annulled by the CFI

- (1) On 3 December 2002, the Belgian authorities notified¹ to the Commission an increase of the capital of La Poste, the Belgian postal operator. Following a preliminary examination, the Commission decided on 23 July 2003² not to raise objections on the notified measure. The Commission verified in its decision that the capital injection, together with other measures in favour of La Poste identified in the preliminary investigation, did not over-compensate La Poste for the net costs it incurred in its public service missions over the period 1992-2002.
- (2) The decision of the Commission was challenged in front of the Court of First Instance on 27 November 2003 by Deutsche Post AG and its Belgian subsidiary DHL International³. On 10 February 2009, the CFI annulled the Commission decision. The CFI concluded that the Commission adopted the decision not to raise objections in spite of the existence of serious difficulties that should have led it to initiate a formal investigation procedure.
- (3) Belgium has challenged the CFI judgement before the European Court of Justice on 22 April 2009.
- (4) According to Article 233 EC, "*The institution or institutions whose act has been declared void or whose failure to act has been declared contrary to this Treaty shall be required to take the necessary measures to comply with the judgment of the Court of Justice*". Since the aforementioned judgement annuls the Commission decision of 23 July 2003 in its entirety (and not simply the assessment with respect to specific measure(s)) because the Commission did not carry out a formal investigation, the Commission is of the view that in order to comply with that judgement it has to open the formal investigation procedure with respect to all the measures mentioned by the annulled decision.

1.2. Complaint concerning aid to press distribution

- (5) In 2005 a number of Belgian private press distribution companies filed a complaint⁴, both under antitrust and State aid rules, against a press distribution scheme agreed between the Belgian authorities and La Poste. The agreement entrusts La Poste with the public service mission of press distribution all over Belgium, fixes tariffs for this service as well as the compensation La Poste is entitled to receive for the extra costs incurred in fulfilling this mission. The central issue of the complaint is the pricing of La Poste's services which the complainants claim is so low that it effectively excludes any possibilities for competition.

¹ Case number N 763/2002

² C(2003) 2508 final, OJ 8.10.2003, 2003/C 241/19.

³ Case T-388/03.

⁴ Case number CP 218/2005

- (6) As far as State aid rules are concerned, the Commission services rejected the complaint after a preliminary assessment showing that that the net additional costs of the public service of press distribution entrusted by the Belgian authorities with La Poste were not over-compensated. In May 2009 the complainants have however contested the preliminary view of the Commission services, submitted additional information and requested the Commission to pursue an investigation.

1.3. 4th "Contrat de gestion" (2005-2010)

- (7) In the context of the examination of the press distribution compensation, the Commission services discovered that Belgium had agreed a non-notified "contrat de gestion" (management contract) with La Poste in 2005, which provided for the payment of compensation for SGEIs. An ex officio-case⁵ was therefore opened and a request for information was sent to Belgium in April 2007.
- (8) In December 2007 the Belgian authorities replied stating that they consider the measures not to constitute State aid, since all the four conditions of the Altmark judgement are fulfilled in this case. The Belgian authorities provided subsequently information on the 4th "contrat de gestion", including the cost-accounting system used to define the State compensation.

2. THE BELGIAN LA POSTE

2.1. Legal status and operations

- (9) The Belgian Post was a State agency until 1992, when it was incorporated as a separate legal entity ("entreprise publique autonome"). In 2000, its legal status changed to "société anonyme de droit public".
- (10) The operating income of La Poste in 2008 was €2262 million, with a net profit of €222 million. At the end of 2008 La Poste employed 35 313 persons. In comparison, in 2002, La Poste had 42 000 staff members. Even with the reduction, the staff costs represent 65% of the total operating costs.
- (11) Since 1 January 2008, the business of La Poste is organised in three commercial divisions: Enterprise (large customers), Residential, Small Office/Home Office & Small Enterprises (individuals and small businesses) and International (cross-border deliveries). The three commercial business units are supported by two service units: Mail & Parcels Operations and Service Operations. In addition, there are 13 subsidiaries, including La Banque de la Poste.
- (12) A minority share of 50% minus one share was sold to Danish Post and CVC Partners in 2005. The Belgian State is the majority shareholder.

2.2. Public service obligations and their financing

- (13) La Poste is entrusted with a number of public service missions as described in paragraph 20 below.

⁵ Case number CP 100/2007

- (14) The economic relationship between La Poste and the State is defined in "contrats de gestion" (management contracts). The management contracts detail the public service duties, the parameters of compensation applicable in respect of those duties, the rules of conduct with regard to users and the compensation for the net costs of services of general interest (SGEIs) entrusted with La Poste. The current contract sets a ceiling for the yearly State the compensation for the SGEI missions carried out by La Poste. The compensation ceiling was € 298 million in 2006 [see paragraph 25 below]. This represented 13.4% of the total turnover of La Poste. Within the yearly compensation, the single largest part is paid for the distribution schemes for daily press and periodicals (approximately [...]*) % of the total compensation).

3. DESCRIPTION OF THE MEASURES

- (15) Following the judgement of the CFI, and given the interconnection of the various measures decided by the Belgian authorities in favour of La Poste, both the ones covered by the annulled decision and others granted subsequently, some of which are subject to complaints, the Commission considers it necessary for reasons of consistency to carry out one comprehensive examination of all the measures described below in order to determine whether they have overcompensated La Poste for the net additional costs of providing the SGEIs entrusted with it.

- (16) The measures under examination will include the different "contrats de gestion" which have governed the compensation for public service missions since the incorporation of La Poste in 1992, as well as other ad hoc measures outside those contracts.

- (17) The measures under examination are the following:

3.1. "Contrats de gestion"

- (18) Since its incorporation four management contracts have been signed between La Poste and the Belgian State. These "contrats de gestion" have covered the following periods:

- 1st contract – 14.9.1992 – 31.12.1996
- 2nd contract – 1.1.1997 – 31.12.2001⁶
- 3rd contract – 24.9.2002 – 23.9.2005
- 4th contract – 24.9.2005 – 23.9.2010

- (19) For the execution of the public service missions under the "contrats de gestion", a yearly compensation by the State has been foreseen. State's intervention covers the difference between the actual cost price to La Poste and the price invoiced to the user of the public services. In order to incite la Poste to achieve efficiency gains, the State has set a maximum ceiling for the compensations below the actual costs incurred by La Poste

* Business secret

⁶ Between the end date of the 2nd contrat de gestion and the subsequent start date of the 3rd contrat de gestion, there may have been a period not covered by either of the two contracts.

- (20) The contracts define the list of public service missions and the calculation of compensation. The public service missions as defined by the State in the 4th "contrat de gestion" are:

Postal services

- i. Universal postal service ^{*7}
- ii. Distribution of daily newspapers
- iii. Distribution of periodicals
- iv. Distribution of electoral materials
- v. Special tariff for non-profit associations **
- vi. Mail in franchise postale (royal and other special correspondence)
- vii. Public service role of La Poste in international letter services in line with Universal Postal Union requirements*
- viii. Public service role of La Poste in international parcels in line with Universal Postal Union requirements *

Financial services available to all citizens

- ix. State payments through postal accounts
- x. Cash deposits on current accounts
- xi. Issuance of postal orders
- xii. Home payment of retirement and survivors' pensions and disabled persons' allowances
- xiii. Payments of attendance fees at elections **
- xiv. Accounting of funds and documents of title for traffic penalties
- xv. Fishing licenses

Sale of stamps

- xvi. Sale of stamps

Other public services

- xvii. Social role of the postman

⁷ * public service obligation to be discharged without financial compensation from the State. ** public service obligation eligible for compensation from the State but not taken into account for the calculation of the maximum ceiling of compensation.

- xviii. Appropriate information to the public **
- xix. Printing and delivery of electronic mail **
- xx. Message certification services **
- xxi. Services carried out for State accountants
- xxii. Sale of revenue and penalty stamps
- xxiii. Cooperation in the distribution of voting packages and ballot papers **

Network

- xxiv. 1300 post offices including presence in all 589 municipalities **

(21) The 4th "contrat de gestion" foresees that the costs of some of the public service missions are not to be compensated by the State even though they remain an obligation of La Poste. This is the case of the costs of universal service obligations and of the international letter and parcel services (points i., vii. and viii. above, marked with an asterisk (*)).

(22) Furthermore, certain public service missions are eligible for compensation, but they have not been taken into account when defining the maximum ceiling for yearly compensation. This is the case of the following public service missions marked with two asterisks (**) above:

- v. Special tariff for non-profit associations **
- xiii. Payments of attendance fees at elections **
- xviii. Appropriate information to the public **
- xix. Printing and delivery of electronic mail **
- xx. Message certification services **
- xxiii. Cooperation in the distribution of voting packages and ballot papers **
- xxiv. 1300 postal offices including presence in all 589 municipalities **

(23) According to the Belgian authorities the non-inclusion of the two above categories of costs in the calculation of the maximum compensation leads to an under-compensation to La Poste.

(24) The press distribution scheme that has been the object of a separate complaint [see point 1.2 above] is an integral part of the "contrat de gestion" and is financed in the same way as the other measures covered by the contract.

- (25) The yearly compensation paid to La Poste has been in the range of €200-300 million. The method of calculation and the parameters have varied between the different "contrats de gestion".⁸:

1st contrat de gestion⁹

1992: Not available

1993: €387 953 366

1994: €382 995 496

1995: €382 995 496

1996: €382 995 496

2nd contrat de gestion¹⁰

1997: €208 231 000

1998: €211 042 000

1999: €213 863 000

2000: €217 005 000

2001: €222 932 000

3rd contrat de gestion¹¹

2002: €226 743 711

2003: €223 080 000

2004: €258 420 000

2005: €258 420 000 + indexation

4th contrat de gestion¹²

⁸ For the years where no confirmed *ex post* data is available, the figures are based on *ex ante* estimates. Exchange rate used for transfers denominated in Belgian francs is BEF/EUR= 40,3399

⁹ Maximum amount of compensation to be paid according to the contract.

¹⁰ Amounts received by La Poste

¹¹ The 3rd "contrat de gestion" was concluded in September 2002 and its implementing financial agreement was signed in May 2003. The figures for the years 2002 and 2003 are based on previous estimates of La Poste, while for the years 2004 and 2005 the amounts are those specified in the agreement of May 2003. For 2005, an increase in line with the consumer price index was foreseen (indexation).

¹² In the 4th "contrat de gestion", an annual increase of the compensation in line with the consumer price index is foreseen (indexation).

2006: €298 261 000
2007: €303 623 000
2008: €303 623 000 + indexation
2009: €303 623 000 + indexation
2010: €303 623 000 + indexation

(26) In addition to the "contrats de gestion", there are public services conferred to La Poste by Royal decree of 12 January 1970 as modified by Royal decree of 30 April 2007 but not mentioned in the contrat de gestion.

- i. Return mail to public entities
- ii. Public registered letters
- iii. Registered letters and mailings for the blind
- iv. Sale of stamps by postmen
- v. Postal orders by postmen
- vi. Changes of official address
- vii. Deferred payment of mailings by public entities

(27) The execution of these service obligations has caused extra costs to La Poste. However, these public service missions are not included in the calculation of the annual compensation by the State.

3.2. Ad hoc measures outside the "contrats de gestion"

i) Exemption from corporate tax

(28) According to the Commission decision from 2003, at the time La Poste was for taxation purposes assimilated to a State agency and therefore exempted from company tax.

(29) In the period 1992-2002 the company had made a cumulative net loss. Therefore La Poste had not benefited from the tax exemption at the time of the 2003 decision. However the exemption from corporate tax lasted until 31 December 2005¹³. Consequently, it is necessary to assess its effects in the period 2003-2005.

ii) Exemption from property tax of buildings used for public service tasks

(30) According to the Commission decision from 2003 La Poste was exempted from paying property tax on its buildings used for public service tasks.

¹³ "Loi-programme", 25 December 2005

(31) The value of the advantage in the year 2000 was estimated to be €[...] million. However the exemption from property tax appears to be still in force. Consequently, it is necessary to assess the effects of the exemption up to 2010.

iii) Capital injections

(32) The Commission decision from 2003 assessed a series of capital injections to La Poste. The notification by Belgium authorities in 2002 concerned an injection of capital of La Poste by €297.5 million. According to Belgium, the notified injection was made on market economy investor terms and therefore did not constitute aid. In addition, in 1997 there had been two non-notified capital injections of a total value of 62 million. These funds originated from deferred public service compensations that had not been paid to La Poste in time and that for reasons of budgetary convenience were subsequently disbursed in the form of capital injections.

iv) State guarantee for loans

(33) According to the Commission decision from 2003 La Poste had the option to request a State guarantee for its loans against a 0.25% premium. Nevertheless no guarantees under this facility had been subscribed by La Poste up to that time. In case guarantees would have been granted to La Poste subsequently, this may have constituted an aid measure.

v) Transfer of buildings and relief of the pension obligations

(34) The 2003 decision assessed a series of measures related to the incorporation of La Poste as a separate legal entity in 1992, when a separation of both assets and liabilities from the State agency to the new entity was operated. At the moment of its incorporation, La Poste remained liable for pension obligations of its agents accumulated in the years 1972-1992 when La Poste still was a State agency. A provision of €101 million was made in the balance sheet to cover for these obligations. At the same time, legal ownership of State-owned buildings, evaluated to be of similar value as the pension obligations, that had been previously used by the State agency for the public service activities, was transferred to the newly incorporated La Poste as a counterpart for the pension burden remaining on the responsibility La Poste.

(35) In 1997, the pension scheme was aligned with the general pension system. Thereby the State took over from La Poste the pension liabilities accumulated in the period 1972-1992 as well as the accumulated pension debt from the years 1992-1996. La Poste consequently removed the €101 million provision from the balance sheet, transferred the amount to revaluation reserves, and at the same time revaluated downwards the value of the transferred buildings.

(36) It cannot be excluded that other measures from the period 1992-2002, beyond the measures addressed in the 2003 decision may be found during the investigation.

4. ASSESSMENT

4.1. Presence of aid under Article 87(1) EC

(37) According to Article 87 (1) of the Treaty, a measure constitutes State aid if the following four cumulative conditions are met:

- i. The measure must confer an advantage on the beneficiary.
- ii. The measure must distort or threaten to distort competition by favouring certain undertakings.
- iii. The measure must be taken by the State or must involve State resources.
- iv. The measure must be capable of affecting trade between Member States.

4.1.1. Advantage

(38) As far as the compensation for public service costs is concerned, the Judgement of the Court of Justice on *Altmark*, issued in 2003 after the Commission adopted the annulled decision, defines the criteria to be fulfilled for public measures to be regarded as compensations for public service obligations and for them to escape being regarded as State aid under Article 87(1) EC. In the present case, these criteria, in particular the 4th criterion, do not seem to be fulfilled: La Poste has not been chosen in a public procurement procedure. Moreover, neither have the Belgian authorities proven that the compensation has been determined on the basis of an analysis of the costs which a typical undertaking, well-run and adequately provided with appropriate means would have incurred in discharging the public service obligations nor is there any indication available to the Commission that would suggest that the 4th criterion is met.

(39) In accordance with the judgement of the Court of first Instance of 10 February 2009, the Commission also has to assess whether the set of measures carried out at the moment of the incorporation of La Poste as a separate entity (transfer of buildings, assumption of pension liabilities, and subsequent cancellation of those liabilities; see paragraphs 34-36 above) may include an advantage to La Poste in so far as they relieve it from costs or financial obligations it would otherwise have to bear or grant an advantage that it would not have received under normal market condition. In particular the Commission underlines that according to the CFI judgment "*the Commission did not obtain information which would have enabled it to rule in the light of Article 87 EC on the classification of the transfer by the Belgian State of properties in favour of La Poste, even though such measures might have secured an advantage for that undertaking. The Commission took the contested decision without having at its disposal evidence which, in particular, could have enabled it to assess the advantage secured by making the properties available gratuitously (§109)*".

(40) Insofar as La Poste has benefited from tax exemptions, the exemptions would have relieved La Poste from costs or financial obligations it would otherwise have to bear itself. The Commission will assess whether La Poste has benefited from the exemption from corporate tax in the period 2003-2005, while it appears that La Poste has benefited from an exemption from property tax since its incorporation in 1992.

- (41) For the capital injections, the Commission will assess, in the light of the jurisprudence of the Community courts¹⁴, whether the three capital injections have to be assessed jointly due to their possible links in time and purpose. The Commission will also assess whether the injections were carried out in line with the 1993 Commission Communication on public undertakings¹⁵, in particular whether the injections were made on terms that a market economy investor would have accepted and therefore would not constitute aid.
- (42) The Commission has doubts whether the capital injections were made on terms that a market economy investor would have accepted. At the time of the capital injections, La Poste was loss-making, there was no private participation in the investments, and the capital injections included funds that were in fact public service compensations from previous years that had not been paid to La Poste in time and that were for reasons of budgetary convenience subsequently disbursed in the form of capital injections but without an adequate investment analysis. These elements seem to constitute behaviour that would not be typical for a market economy investor.
- (43) For the State guarantees, it will be verified whether the measure is in line with the Commission's Guarantee Notices¹⁶ requirements for market conform guarantees and therefore would not constitute aid. It will be verified in particular whether the 0.25% premium is consistent with the requirements of adequate remuneration, taking into account creditworthiness of the beneficiary and the collateral provided.

4.1.2. *Selectivity*

- (44) The measures are clearly selective, as they concern only one undertaking, La Poste.

4.1.3. *Existence of State resources*

- (45) The measures are financed through State resources in a number of ways:
- The compensations according to the "contrats de gestion" [see paragraph 19 above] are financed from the regular State budget
 - Tax exemptions [see paragraphs 28-29 above] result in a loss of tax income that the State otherwise would have received
 - Capital injections [see paragraph 32 above] have been made with State funds

¹⁴ CFI judgement of 15.9.1998 in case T-11/1995 BP Chemicals v Commission states (paragraphs 170-171): "*in a case involving three capital injections made by the same investor over a period of two years [...] the Commission must determine*

¹⁵ *Commission Communication to the Member States - application of Articles 92 and 93 of the EC Treaty and of Article 5 of Commission Directive 80/723/EEC to public undertakings in the manufacturing sector.* OJ C 307, 13.11.1993 p. 3-14.

¹⁶ Current version of the Notice: *Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees.* OJ C 155, 20.6.2008, p. 10-22

- State guarantees [see paragraph 33 above] imply that the State carries a financial risk that it would otherwise not have, without there being any evidence that it is receiving an adequate remuneration in return.
- Relief of pension obligations [see paragraphs 34-35 above] involves State resources insofar as the State took over from La Poste the responsibility for the pensions, thus increasing the liabilities of the State.
- The buildings transferred to La Poste had previously been property of the State and the change of ownership therefore implied a transfer of resources from the State.

4.1.4. *Affection of trade between Member States*

- (46) Due to the competition between companies in the postal service markets, the measures may distort competition and affect the intra-community trade. The European market for parcel or express letter services are characterized by intense competition with other providers – like Deutsche Post, DHL International, UPS, TNT, Royal Mail. Likewise, press distribution services and financial services markets are open to competition. There is therefore no doubt that selective advantages affect competition and trade between Member States.
- (47) The Commission considers that the measures described above appear *prima facie* to constitute State aid in the meaning of Article 87 (1) EC. However, the Commission has doubts on the existence of aid in the capital injections, income tax exemption and State guarantees, where the Commission will investigate whether an advantage has been conferred to La Poste.

4.2. Compatibility of compensation for services of general economic interest under Article 86(2) EC

- (48) Article 86(2) EC states that undertakings entrusted with the operation of services of general economic interest, or having the character of a revenue-producing monopoly are subject to the rules contained in the Treaty, in particular to the rules on competition. However, Article 86(2) EC allows an exception from the rules contained in the Treaty, providing that a number of criteria are met: firstly, there must be an act of entrustment, whereby the State confers responsibility for the execution of a certain task to an undertaking. Secondly, the entrustment must relate to a service of general economic interest. Thirdly, the exception has to be necessary for the performance of the tasks assigned and proportional to that end. Finally, the development of trade must not be affected to such an extent as would be contrary to the interests of the Community. The Commission will investigate whether the above criteria are fulfilled.
- (49) In particular, the Commission will investigate to which extent the granted compensation was justified for the fulfilment of the public service obligations from the incorporation of La Poste in 1992 until the end of the current "contrat de gestion" on 23 September 2010.

- (50) In the light of the jurisprudence of the Community courts, the Commission has – in the 1996 and 2001 Communications^{17,18} as well as in the 2005 Framework¹⁹ on services of general economic interest – clarified how it will apply Article 86(2).
- (51) The Commission wishes to remind in particular that according to paragraphs 14, 15, and 17 of the 2005 Framework:
- The amount of compensation may not exceed what is necessary to cover the costs incurred in discharging the public service obligations, taking into account the relevant receipts and reasonable profit for discharging those obligations.
 - The amount of compensation must be actually used for the operation of the service of general economic interest concerned. Public service compensation used to operate on other markets is not justified, and consequently constitutes incompatible State aid.
 - The revenues to be taken into account include all benefits and advantages granted by the State in any form whatsoever, irrespective of their classification for the purposes of Article 87 of the EC Treaty.
- (52) The objective of the investigation will be to verify that there is no overcompensation of the public service missions. This will require an investigation of the allocation of costs and revenues between commercial and SGEI activities in line with the Transparency Directive²⁰ and the Chronopost Judgement²¹. The cost basis to be taken into account will include all net costs of economic public service: both the obligations specified in the "contrats de gestions" and the other potential obligations defined in other legislation, whether an ear-marked compensation is paid for these or not [see paragraph 20 above].
- (53) For the purposes of determining potential overcompensation, in addition to the payments received under the management contracts, the Commission will also take into consideration the additional aid received by La Poste from the ad hoc interventions of fiscal or other nature referred to in section 3.2 above, and the capital contribution made by the Belgian State in 2003, to the extent that this latter intervention is not in line with the market economy public investor principle, as well as any other benefits and advantages granted by the State in any form whatsoever, irrespective of their classification for the purposes of Article 87 of the EC Treaty.

4.3. Compatibility of relief of pension liabilities

¹⁷ Services of general interest in Europe (1996/C 281/03).

¹⁸ Services of general interest in Europe (2001/C 17/04).

¹⁹ Community framework for State aid in the form of public service compensation (2005/C 297/04).

²⁰ Commission Directive 2006/111/EC of 16 November 2006, OJ L 318, 17.11.2006

²¹ Case C-83/01 P, C-93/01 P and C-94/01 P

- (54) The Commission will verify the conditions under which La Poste was in 1997 relieved of its pensions liabilities accumulated in the period 1972-1992 [see paragraphs 34-35 above]. At this stage the Commission is unsure whether these measures contain aid elements that would go beyond the level of aid admissible under the approach to pension arrangements that have been developed in previous similar pension cases (EDF²², La Poste (France)²³, Royal Mail²⁴) subsequent to the Commission's decision of 23 July 2003²⁵.
- (55) During the investigation, the waiving of pension obligations will be analysed in the light of Commission's decision-making practice. In particular, it will be scrutinised if as a result of relief of obligations, La Poste has been placed in a comparable situation vis-à-vis its competitors as regards social security contributions and tax payments.

5. DECISION

- (56) In the light of the foregoing considerations, the Commission, acting under the procedure laid down in Article 88(2) of the EC Treaty, requests Belgium to submit its comments and to provide all such information as may help to assess the measures mentioned in this decision in the light of State aid rules, within one month of the date of receipt of this letter. It requests your authorities to forward a copy of this letter to the potential recipient of the aid immediately.
- (57) The Commission wishes to remind Belgium that Article 88(3) of the EC Treaty has suspensory effect, and would draw your attention to Article 14 of Council Regulation (EC) No 659/1999, which provides that all unlawful aid may be recovered from the recipient.
- (58) The Commission wishes to remind Belgium that it will inform interested parties by publishing this letter and a meaningful summary of it in the *Official Journal of the European Union*. It will also inform interested parties in the EFTA countries which are signatories to the EEA Agreement, by publication of a notice in the EEA Supplement to the *Official Journal of the European Union* and will inform the EFTA Surveillance Authority by sending a copy of this letter. All such interested parties will be invited to submit their comments within one month of the date of such publication.
- (59) If this letter contains confidential information which should not be published, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to publication of the full text of this letter. Your request specifying the relevant information should be sent by registered letter or fax to:

²² OJ L 049, 22.02.2005 p. 9

²³ OJ L 063 of 7.03.2008, p. 16

²⁴ Case C 7/2007 Royal Mail C(2009)2468 final. Please see in particular paragraphs 108-113.

²⁵ C(2003) 2508 final, OJ 8.10.2003, 2003/C 241/19.

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Yours faithfully,
For the Commission

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