

## EU Telecom rules: Where are we now?



Over the last year competition in the mobile sector in Belgium increased, as various virtual network operators entered the mobile market. By contrast, development of broadband access is slowing down.

After late transposition of the Telecom Rules, the Belgian National Regulatory Authority (NRA), Belgian Institute for Post and Telecommunications, carried out a large proportion of the market reviews and started to implement the first remedies. The cooperation mechanisms agreed between the federal and regional authorities should allow Belgium to send notification of the few remaining markets. However, the regulatory efforts have not always appeared very effective and appeals are systematically lodged.

### Overview

#### Broadband

Belgium is not keeping up with the pace of broadband penetration in the leading Member States and has fallen to fifth place (21.8%).

Nearly half the retail broadband lines are provided by the incumbent. Alternative operators' large market share is mainly due to cable networks (72% of alternative operators' lines).

Most broadband lines of new entrants are still supplied using the incumbent's bitstream reference offer. Market reviews on unbundled access and broadband have not yet been finalised. As the federal state and the language communities are constitutionally required to cooperate on shared competences, the respective governments settled their dispute by means of a cooperation agreement. The federal and community regulators will then start cooperating.

#### Mobile

The penetration rate stands at 92%. The market share of the largest mobile operator is still decreasing (from 47% to 45%), while the second and third operators' market shares are growing (to 34% and 21% respectively). Competition is increasing as mobile virtual network operators enter the market.

The operators offer 3G services (with the minimum coverage required by law of 40% or more at the end of 2006) or enhanced 2G services (EDGE).

Mobile termination rates are still amongst the highest in Europe. After analysis of the relevant market in 2006, the NRA identified all three operators as having significant market power and, in particular, imposed a cost-orientation obligation on them, following a three-year glide

path. The NRA has given a commitment to review the current decision in 2007 to achieve (more) symmetry.

#### Fixed telephony

The market shares of new entrants (33.7%) are still increasing although at a slower pace. Retail markets remain largely dominated by the incumbent, which still holds large market shares ranging (in value) from 67% to 83% on all markets (except the international calls markets for residential customers).

On the fixed retail access markets, the incumbent was designated as having significant market power. A new remedy imposed is wholesale line rental (WLR), for which the incumbent is obliged to provide a reference offer (to be launched in 2007). For the call termination market, the NRA decided to reduce the termination rates of the two main fixed competitors by applying a glide path.

On the retail market, problems are often related to price-squeeze issues: alternative operators have challenged certain retail offers by the incumbent. The NRA is developing a price-squeeze test, which will be applied in case of suspicion or complaint.

#### Broadcasting

Belgium has the highest penetration of cable networks in EU-25 (more than 90% of households). Since 2005, digital cable platforms have been emerging and are now cooperating on interactive DTV offers. In 2005 the fixed incumbent launched TV over IP, bundling television, voice and broadband. As for terrestrial DVB, since the end of 2006 the public channels can be received free-to-air in most parts of the country.

The market reviews for broadcasting transmission services, which are allocated exclusively to the community regulators, have been delayed as a result of legal challenges of the community acts before the constitutional court.

## Important consumer information

<p><b>Tariff transparency and quality of service</b></p>	<p>The Belgian Act provides for a large array of consumer protection measures, such as an obligation for operators to present best tariff schemes, to issue detailed invoices and to publish quality-of-service indicators. A tariff simulator, allowing customers to make quantitative and qualitative comparisons of tariffs, is expected to be made available on the NRA website in 2007, first for mobile telephony tariffs and later also for broadband and triple play.</p>
<p><b>Universal service</b></p>	<p>For the main components of universal service (access at a fixed location, directory enquiry services, directories and public pay telephones), the incumbent has been designated as the transitional provider (until the providers are designated under the new mechanism). There are also specific rules on provision of special tariff conditions ("social tariffs") to certain categories of beneficiary. Pursuant to the Telecommunications Act, all public telephony operators, including mobile operators, have been designated to guarantee provision of different categories of tariff discounts. A specific fund has been established to finance this part of the universal service. Concerns have been expressed about the lack of proportionality and the potential effects of market distortion inherent in the system, which is based on the social customers' database working correctly. The Commission is looking into these matters in infringement proceedings.</p>
<p><b>Number portability</b></p>	<p>A royal decree extending number portability rights and obligations to mobile virtual network operators is being prepared.</p>
<p><b>Must-carry</b></p>	<p>The Commission started infringement proceedings against the Belgian authorities with respect to the must-carry rules of the French Community and the Brussels Region. It raised questions with respect to the general interest objectives defined, the proportionality and the transparency of the imposed obligations. Parliament has adopted the federal Act on electronic communications networks and services in Brussels, which includes the amended must-carry obligations for cable networks in this bilingual region: obligations will now be imposed by royal decree, will be subject to periodical review and have to comply better with required general interest objectives.</p>
<p><b>Consumer complaints and out of court dispute resolution</b></p>	<p>Additional provisions give stronger legal protection to consumers in complaints brought before the ombudsman. In out-of-court disputes, the intervention of the ombudsman suspends the payment obligations of the consumer and may lead to recommendations which are executable by the undertaking concerned. Furthermore, the ombudsman's field of action has been extended to slamming in connection with access to internet services</p>

### Infringement proceedings pending under the EU Telecom Rules: 5

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