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Special Report

Belgian Telecom Policy Trends

A year after the Steenbergen Commission in the Netherlands issued a report calling for reforms in the Dutch PTT, the Belgian Government undertook a similar investigation into how the Régie Téléphones et Télégraphes (RTT) might be restructured. Carine Gentges of the Research Center on Informatics and Law, University of Namur, Belgium prepared this summary and analysis of the report by a commission of 'wise men'.

A so-called *Wise Men Commission*, appointed in July 1986 by Paula D'Hondt, Secretary of State in charge of PTT, was assigned the task of elaborating guiding principles for a future telecom policy. Its final report was published on October 28, 1986. Numerous questions are raised in this document, including the monopoly issue, and its recommendations, if approved by the government, could definitely alter to a significant extent not only the very structure of the telecom sector but also the statute on which the national institution operates.

Monopoly

The 'wise men' report first endeavored to define or reconsider the monopolistic position of the RTT. This institution would keep its monopoly for the basic structural framework which includes the basic infrastructure as a whole (copper wires and optical fibers), the connection to users' premises, and the entire transmission and communication installations. This framework would also include satellite earth stations and the international networking.

By taking this description of what should be considered as a basic framework, it appears that the operation of all public telecom networks will in fact continue to be run under monopolistic conditions. On the other hand, all terminals, including modems, would be liberalized and exposed to free competition in three to five years. The reason for this delay is that the RTT needs time to deplete their stocks and to recycle their 5,000 or so employees who would become redundant as a result of the opening of this market.

The report claims that, being a network operator, the RTT is obliged to remain in the terminals market and should compete with the private sector. However, a controlling body, as yet undefined, should be set up in order to avoid unfair competition, in particular preventing the practice of subsidizing terminals with income accrued from monopolistically protected activities.

Although expressed in vague terms, the report suggests new opportunities in the sharing of leased lines, which, if used by third parties – that is, not exclusively dedicated to one company – will in addition to present tariffs be subject to a volume-sensitive tariff on the information transmitted. As regards the plain resale of transmitting capacity, this would remain strictly forbidden.

Standards

In the field of standards the main modification suggested lies in the dichotomy now introduced between the responsibility of setting the standards and the operational duties, both now entrusted to the RTT. Henceforth the latter would no longer be allowed to arbitrate its own cases.

The duty of establishing the standards, delivering conformance certificates, issuing agreements, recognizing installers and inspecting the installations would be allocated to a new body, independent from the RTT, called standards and authorizations in telcoms (NAT). This organ should be integrated within a ministry. In a preliminary stage the technical conformity tests should however continue to be undertaken by the RTT laboratories. Nothing is said

about what will happen afterwards. In particular, the commission has not commented on the practice of self-approval. The commission would exclude from the composition of NAT representatives of manufacturers and the RTT.

Finally, the possibility of appealing against NAT decisions is provided. Complainants can ask for technical counter-opinion by private laboratories.

Procurement

In the matter of procurement the wise men would reduce the decision-making independence now vested in the RTT. The new policy would mean that, for the purchase of terminals, present rules governing public procurement will no longer be applicable. The RTT would be obliged to play by the rules of the marketplace.

On the other hand, for basic framework investments the RTT should continue to adhere to the industrial policy as set up by public authorities.

Tariff setting

A differentiation would be made between terminals on the one hand and transmission services on the other. For the former, the report considers that the RTT should have total authority to decide tariff policy, and this should also apply to international tariffs.

As for so-called 'main' tariffs, which include essential tariffs such as the one applicable to telephone calls, telex operations, DCS network, package-switched networks, etc., a system of price control is provided according to which the increase must remain below a certain percentage (e.g. 25%) of the consumer price index.

Within these limits the ministry in charge of telcoms would be obliged to accept tariff increases.

The RTT statute

In view of the fact that the RTT is operating in fields where technical evolution is fast, it is felt that they should not be hindered in their operations by cumbersome procedures laid down by the government. They should be able to react promptly to both commercial and industrial requirements that private companies are facing and operate with maximum autonomy. With this principle in mind the wise men expressed the view that government control over the RTT should be considerably reduced. To this end it is suggested to transform in the longer term the RTT into a limited liability company with public shareholders.

An intermediary stage however would be provided during which the RTT would take the form of a special independent state company with a statute of its own supervised by one governmental authority which should limit its controls to the most essential matters.

The statute envisaged aims primarily to grant the RTT independent management control and to put an end to the duties now performed by several ministers.

During the transitory period two bodies would be set up: a *governing board* made up of public officials and representatives of trade unions and employers; and a *telecom advisory council* which would represent the public sector, the unions, the employers and the users. This supervisory institution, for instance, would give advice on tariffs and industrial policies. This council would therefore act as a sort of ombudsman.

In addition, the council would be asked to examine all problems raised by the development of new telecom technologies and more particularly to investigate the possibilities for setting up new telematics services.

Finally, the report states that it could be envisaged to sell part of the shares to the public once the RTT has been transformed into a limited liabilities com-

pany. In any case, however, the public sector should hold the majority of the shares.

Like the recommendations of the Steenbergen Commission in the Netherlands, these Belgian proposals will no doubt constitute a very essential element for a new Belgian telecom policy. It should be noted however that though some principles are clearly established, as for instance management autonomy, their application in practice is not always straightforward.

More specifically, though it is clearly stated that the RTT will keep its monopoly of the infrastructure, no clear indication is given as to the policy that should be followed as regards value-added services resold to third parties by the private sector.

The report having been completed, one senses that it will take weeks, if not months, before its recommendations are examined by the government. ■

CONFERENCE ANNOUNCEMENT

Freedom of Data Flows and EEC law

Brussels, Belgium – April 2-3, 1987

The second annual conference on the legal problems arising from the use of dataprocessing and telecommunications in international business practice will be held in Brussels on April 2-3, 1987, on the theme 'Freedom of data flows and EEC law'. The conference, organized by CELIM, European association of computer law specialists, enjoys the support of the Commission of the European Communities.

The speakers and chairmen will be prominent practising lawyers, university lecturers and representatives of relevant international institutions and companies. They will examine to what extent the instruments of a liberalization of data flows can be found in existing EEC law, and in particular in the Treaty of Rome and the decisions of the Court of Justice, whose effects are not confined to the free circulation of goods.

The conference aims to be of immediate and practical interest to the various actors on the information market: operators of telecommunication systems or information services and any enterprise which processes and exchanges information across borders with its subsidiaries or its trading partners (electronic banking, address files, scientific or commercial information, 'paperless' trading etc.).

Issues to be addressed include legal problems relating to contracts, telecommunications and networks, customs taxation, intellectual property, personal data and data affecting public economic interests.

For further details, contact Alain Galaski, Secretariat CELIM, c/o COB, 19 rue de l'Orme, B-1040 Brussels, Belgium. Tel: (32-2) 736-0335/736-0305; telex: 61473, fax: 322/734-6702. ■