

PRESS RELEASE

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The Belgian Competition Authority has opened a formal investigation into possible distortions of competition in the roll-out of fiber networks in Flanders

The Prosecutor general of the Belgian Competition Authority (BCA) has opened proceedings into practices capable of distorting competition in the roll-out of fiber optic networks in Flanders.

Fiber optic (or simply “fiber”) networks are the networks of the future: they have a very high capacity, which allows for very high speeds and enables a significantly higher reliability of the service than on the basis of “traditional” networks. The deployment of fiber networks is central to the achievement of the European digital strategy, and thus for the economy and society as a whole.

In Belgium, the roll-out of fiber networks is still in a relatively early stage and lags behind other EU countries, resulting in a limited portion of Belgian end-users having access to fiber networks at this point. However, the process has recently accelerated and several telecom operators are actively working or planning to further invest in the rollout of fiber networks.

To enable an efficient roll-out of fiber networks, it is very important that fair competition prevails between the different operators and that a level-playing-field is guaranteed, so that companies are guided by the right incentives and the rollout of fiber takes place to the benefit of everyone and society as a whole. Indeed, the conditions of network deployment can affect the conditions of competition and thus the quality and rates of telecommunications services in the long term.

In order to protect a competitive level playing field and thus stimulate the deployment of fiber networks, cities and municipalities play a crucial role given that the deployment takes place on their territory. They are notably one of the main actors in charge of delivering permits and of coordinating roll-out works.

As indicated by the Belgian Institute for Postal Services and Telecommunications (the "BIPT") on its website www.fiberinfo.be,¹ any telecom operator (registered as such with the BIPT) has the right to roll out its own fiber network and to use the public domain and facades to that end, regardless of whether a fiber optic network is already present in the territory or not or whether there is a plan to deploy such a network in the future. As a result, according to BIPT: "the roll-out of a second fiber network cannot be refused for the sole reason that a fiber network is already present". The same principle applies if municipalities are informed that certain operators intend to deploy such a network in the future, all the more so if the municipalities concerned are also shareholders (direct or indirect) in one of the operators concerned.

On the basis of serious indications of practices capable of distorting fair competition and the efficient roll-out of fiber networks in Flanders, and taking into account the BCA's policy note of 12 May 2022 which identifies the telecommunications sector as a priority sector, the Prosecutor general has decided to open a formal investigation.

The opening of an investigation by the Prosecutor general does not imply that companies are guilty of anti-competitive conduct, nor does it prejudge the outcome of the investigation itself, which is still at an early stage.

The duration of an investigation depends on several factors, including the degree of complexity of the case, the cooperation of the companies involved with the BCA, and the exercise of the rights of defense.

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The Belgian Competition Authority (BCA) is an independent administrative authority that contributes to the definition and implementation of competition policy in Belgium. Concretely, the BCA pursues anti-competitive practices, such as cartels and abuses of a dominant position, and reviews the main merger operations. The BCA cooperates with the other competition authorities of the member states of the European Union and the European Commission within the European Competition Network (ECN)

¹ On the website www.fiberinfo.be, the BIPT provides a series of recommendations and good practices for local authorities in order to ensure and stimulate an efficient deployment of fiber networks.