



EUROPEAN COMMISSION

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Bundesnetzagentur (BNetzA)
Tulpenfeld 4
53113 Bonn
Germany

For the attention of
Mr. Jochen Homann
Präsident

Subject: Commission Decision in Case DE/2019/2200: Wholesale local access provided at a fixed location in Germany.

Comments pursuant to Article 7(3) of Directive 2002/21/EC

Dear Mr Homann,

1. PROCEDURE

On 5 September 2019, the Commission registered a notification from the German national regulatory authority, Bundesnetzagentur für Elektrizität, Gas, Telekommunikation, Post und Eisenbahnen (BNetzA)¹, concerning the market for wholesale local access provided at a fixed location in Germany².

¹ Under Article 7 of Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive), OJ L 108, 24.4.2002, p. 33, as amended by Directive 2009/140/EC, OJ L 337, 18.12.2009, p. 37, and Regulation (EC) No 544/2009, OJ L 167, 29.6.2009, p. 12.

² Corresponding to market 3a in Commission Recommendation 2014/710/EU of 9 October 2014 on relevant product and service markets within the electronic communications sector susceptible to ex ante regulation in accordance with Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services (Recommendation on Relevant Markets), OJ L 295, 11.10.2014, p. 79.

The national consultation³ ran from 27 May 2019 to 1 July 2019.

On 18 September 2019, the Commission sent a request for information⁴ to BNetzA and received a reply on 23 September 2019.

Under Article 7(3) of the Framework Directive, national regulatory authorities (NRAs), the Body of European Regulators for Electronic Communications (BEREC) and the Commission may make comments on notified draft measures to the NRA concerned.

2. DESCRIPTION OF THE DRAFT MEASURE

2.1. Background

In 2015, BNetzA notified the fourth review of the market definition and significant market power (SMP) analysis, registered by the Commission under case DE/2015/1791⁵. BNetzA proposed to divide the wholesale market into two sub-markets, both national in scope. The first segment (sub-market A) included various mass-market, copper- and fibre-based unbundled local loop access products and a virtual local unbundled access to the local loop at the main distribution frame (MDF) or a point closer to the end-user. The second segment of the market (sub-market B) included customised local access to fibre for large businesses, built on demand, usually after the conclusion of a contract.

BNetzA designated Telekom Deutschland GmbH (DT) as an undertaking with SMP on sub-market A. Sub-market B was proposed to be deregulated based on the three-criteria test. In its comments, the Commission observed that access seekers appeared to have limited options in case they wanted to benefit from infrastructure improvements, which would imply an upgrade of the network architecture to FTTC technologies. Therefore, the Commission recalled the importance of ensuring the availability of an appropriate wholesale virtual local access product with characteristics comparable to those of a physical local access product, in line with the criteria laid out in the Explanatory Note accompanying the Recommendation on Relevant Markets. The Commission noted in this respect that 'locality' is typically equivalent to access granted at or close to the MDF.

The Commission assessed the set of remedies related to the fourth review of market 3a under case DE/2016/1876⁶. BNetzA proposed to impose on DT the following obligations: (i) access, including either as a virtual unbundled local access (VULA) product at the street cabinet (KVz-VULA)⁷ or as a Broadband Network Gateway (BNG) Layer-2 access product where a loss of physical access would occur due to the

³ In accordance with Article 6 of the Framework Directive.

⁴ In accordance with Article 5(2) of the Framework Directive.

⁵ C(2015) 5495.

⁶ C(2016) 4834. BNetzA notified and the Commission assessed further details and amendments of remedies in a number of subsequent cases.

⁷ BNetzA's proposal expected this VULA access to be provided at the first concentration point in the network (closest to the end-user). This is in most cases the multi-service access node (MSAN) at the street cabinet. Where a line to be vectored is directly connected with the exchange (the so-called A0-lines) the VULA product would have to be provided at the exchange.

deployment of VDSL2 vectoring technology across Germany⁸ (ii) transparency, (iii) non-discrimination, and (iv) price control⁹. The Commission's comments concerned the characteristics of the BNG Layer-2 access product and its inclusion in the market definition of the wholesale central access market (market 3b), as well as the criteria for vectoring deployment by alternative operators and, finally, the scope of the duct access obligation.

2.2. Market definition

The starting point of the current market analysis is the retail market for broadband connections. Technological developments and the growing number of services offered in bundles¹⁰ fostered inter-platform competition¹¹ and increased - from the customer's prospective - the functional interchangeability of services based on various network technologies¹², including services offered over cable networks¹³. BNetzA concludes therefore that the retail market includes all broadband connections based on xDSL, FTTH/B¹⁴ and cable.

At wholesale level, BNetzA includes in the local access market: (a) unbundled access to the copper local loop at the MDF or at a different location closer to the end-user; (b) hybrid local loop unbundling at the MDF¹⁵; (c) unbundled access to mass market

⁸ BNetzA proposed to exempt DT from the obligation to grant unbundled physical access to the local loop in order to allow for the deployment of VDSL2 vectoring in cases where certain conditions would be met.

⁹ BNetzA proposed (i) ex ante price control (cost orientation) for the rates for access to copper local loops and for the corresponding VULA product; and (ii) ex post price regulation (abuse test) for the rates for access to fibre local loops. BNetzA also proposed to continue testing the existence of a sufficient margin between retail and wholesale prices ('Preis-Kosten-Schere') and between different wholesale inputs ('Kosten-Kosten-Schere').

¹⁰ Bundles account for more than 80% of accesses sold. The importance of the pure voice access segment is decreasing: the number of connections decreased from 9.1 million in 2014 to 6.5 million in 2017.

¹¹ The broadband market at retail level shows a dynamic level of competition: in 2018 TDG had a market share of █, while the main competitors Vodafone, 1&1 and Unitymedia had market shares of █, respectively, █.

¹² Hybrid accesses (where a fixed line is connected to a mobile broadband access) are part of the retail broadband access market, as they are considered substitutable to pure fixed-line xDSL. On the contrary, BNetzA does not consider wireless fixed access and pure mobile access as effective substitutes and therefore do not include them in the retail broadband market. None of these products is however part of the relevant wholesale market defined by BNetzA.

¹³ The total number of broadband connections increased from 25 million in 2009 to 34.2 million in 2018. The number of connections based on cable increased significantly more than the number of xDSL-based retail lines. However, while until 2016 the number of cable connections grew by about 600.000 to 800.000 connections every year, this trend has weakened in recent years. Between 2016 and 2017, cable network operators registered an increase of 500.000 lines; between 2017 and 2018 an increase of 300.000 connections. In the second quarter of 2019, the number of cable connections was around █.

¹⁴ By mid-2018, approximately 3.7 million FTTH/B connections were available and at the end of 2018 only 1.1 million were in use.

¹⁵ The hybrid connection networks consist of a copper-based and a fibre-optic-based part. In general, the section between the MDF and Cross Connection Cabinet is covered by fibre optics while between the Cross Connection Cabinet and the Subscriber Connection Unit copper continues to be used.

FTTH/B with a point-to-point architecture¹⁶ at the optical distribution frame (ODF); and (d) virtual local access products, which include VULA at the MSAN/street cabinet (KVz-VULA) and Layer-2 Bitstream at switch/BNG in both point-to-point and point-to-multipoint- mass market FTTH/B networks. With regard to Layer-2 Bitstream¹⁷, BNetzA considers that, given the enhancement of its functional characteristics, it can be considered as a VULA type access product and should therefore be included in the wholesale local access market.¹⁸ Lastly, BNetzA considers that the indirect competitive pressure exerted by cable operators at retail level is sufficiently strong to include cable networks in the wholesale local access market.¹⁹

As regards the geographic market definition, BNetzA analyses whether the competitive dynamics and conditions are homogenous throughout the national territory or whether a definition of subnational markets would be appropriate. The analysis covers 5 261 medium and densely populated municipalities.²⁰ BNetzA includes into its detailed analysis only network operators with a network coverage of at least 10%²¹ in a given municipality. BNetzA observes that the degrees of alternative networks' coverage differs considerably across municipalities. With particular regard to cable networks, they collectively cover about two-thirds of households but their footprint varies considerably

¹⁶ Physical unbundling of FTTH/B networks with a point to multi-point architecture is not considered to be a part of the relevant market as it is not currently offered as an access product. In the response to the request of information, BNetzA underlines that, despite the fact that the wavelength-division multiplexing (WDM) technology is already technically available, the use of such access will not become economically viable within the period of the current market review. BNetzA added that it will continue to monitor market developments and adapt its future decision where appropriate.

¹⁷ This access product is available at ca. 900 access points located at the second concentration point of the network, which also forms the border with the IP core network of TDG. The Layer 2 Bitstream offered as substitute in case of vectoring deployment was originally included in the central access market (3b) because of the lack of locality, absence of control over the transmission network functionalities and an insufficient service differentiation possibility.

¹⁸ In particular, BNetzA considers that the requirement of locality (first VULA criterion) is fulfilled to the extent that the Layer-2 Bitstream access product emulates the features of physical unbundling as effectively as possible, without necessarily having the same number of interconnection points. Further, BNetzA considers that the second criterion (generic access) is in so far met. Indeed, the product allows to provide the access customers with service-agnostic, uncontended transmission capacity, in particular the availability of a dedicated end-to-end logical with a guaranteed availability of 98.5% per month. Finally, BNetzA considers that the third criterion (sufficient control by the access seeker with a view to allowing effective retail offer differentiation) is also fulfilled.

¹⁹ There are no wholesale products offered by cable operators at the moment. The planned merger of the cable operators Vodafone and Unitymedia (conditionally approved by the Commission on 18 July 2019 under the case M8864) may foster the development of a cable-based VULA product. Indeed, as part of the merger commitments, the new cable network operator will have to provide Telefónica with wholesale access to its network. However, the functionalities of this access are not yet known. Moreover, the merged cable operator plans to update its network to DOCSIS 3.1 by the end of 2022. The previous Vodafone network plans were to have 90% of all connections migrated by the end of 2019. In the network of Unitymedia the upgrade is much less advanced. By the end of 2018, only four cities had switched to DOCSIS 3.1.

²⁰ Germany has approximately 11,092 municipalities. The 5,261 municipalities considered in the geographic analysis include 88,5% of the German population and 90% of households.

²¹ This threshold is considered relevant in order to avoid misrepresentation of small infrastructure owners that due to their size are deemed unable to exert meaningful competitive pressure.

across Germany. Moreover, the municipalities with alternative infrastructure are geographically dispersed.²² BNetzA groups the 5 261 municipalities in four clusters:

- 1) Cluster 1: municipalities in which only DT infrastructure exists (or the presence of alternative networks is very marginal);
- 2) Cluster 2: municipalities which, in addition to the infrastructure of DT, also have at least one additional regional non-cable network infrastructure (in particular alternative FTTH/B infrastructures) with a minimum coverage of 10%;
- 3) Cluster 3: municipalities with only cable-based infrastructure(s) with a minimum coverage of 10%, in addition to DT infrastructure. This cluster includes Berlin; and
- 4) Cluster 4: municipalities with at least one regional network infrastructure (in particular alternative FTTH/B infrastructures) with a minimum coverage of 10% and at least one cable-based infrastructure with a minimum coverage of 10%, in addition to DT infrastructure. This cluster includes Hamburg, Cologne and Munich.

Cluster 1 includes 1816 municipalities with approximately 6.8 million inhabitants and DT's share of end users is ██████████ in the modified Greenfield scenarios used by BNetzA²³.

Cluster 2 includes 52 municipalities with approximately 250 000 inhabitants: here alternative operators are mostly very small network operators. In this cluster, DT has on average a projected retail market share of ██████████²⁴.

Cluster 3, where the only alternative network is cable, includes 3,281 municipalities with approximately 59 million inhabitants. According to the information provided in answer to a request of information, 1 037 of these 3 281 municipalities have alternative providers with a coverage of at least 50%, while 1,022 municipalities have alternative providers with a coverage of at least 75%. In this cluster, DT has on average a projected retail market share ██████████²⁵.

Cluster 4 includes 112 municipalities with approximately 7 million inhabitants. According to the information provided in answer to a request of information, in 51 of these 112 municipalities, there is at least one alternative provider with a coverage between 50% and 75%; in 31 municipalities, there is at least one alternative provider

²² In this regard, BNetzA comments that it is not unusual that the degree of coverage diverges significantly even between two neighbouring municipalities.

²³ In the modified Greenfield scenarios considered by BNetzA, all end user connections are allocated to infrastructure owners present in the relevant Cluster according to two alternative variants: (a) redistribution of the wholesale access-based end user connections based the ratio of end user connections realised through own infrastructure; and (b) redistribution of the wholesale access-based end user connections based on the ratio of the existing network coverage.

²⁴ See footnote 22.

²⁵ See footnote 22.

with a coverage of minimum 75%. DT's average projected retail market share in this cluster is [REDACTED]²⁶

In addition to the clusters analysis, BNetzA carries out a separate analysis regrouping all municipalities with more than 1 million inhabitants (Berlin, Hamburg, Cologne, Munich)²⁷ as well as an analysis of all those with at least 500 000 inhabitants ("medium-large cities"). The calculation of DT's market shares are made in both cases on average, while the coverage considered relevant is always 10%. In summary, BNetzA observes that DT has an average market share [REDACTED] both in the four large cities and in medium-large cities, and therefore considers that neither of the two groups represents a separate geographic market.

BNetzA concludes its geographic analysis underlining that there is no evidence of retail price differentiation across Germany and observing that there is no interchangeability of wholesale products available nation-wide with regionally limited wholesale products.²⁸ Based on its analysis, BNetzA proposes to define the relevant geographic market as national.

2.3. Finding of significant market power

Before carrying out the SMP assessment, BNetzA carries out the three criteria test justifying a finding of susceptibility to ex ante regulation and finds that all three criteria are fulfilled.

BNetzA proposes to designate the incumbent, DT, with SMP, based on the following main criteria: (i) market shares²⁹, (ii) access to capital markets and financial resources, (iii) barriers to entry and control of infrastructure not easily duplicated, (iv) vertical integration, (v) actual and potential competition, and (vi) lack of or low countervailing buyer power.

The proposed SMP designation applies to DT and its affiliated undertakings. In the reply to the request for information, BNetzA confirms that in the case of a merger control approval of the joint venture (JV) between DT and EWE TEL³⁰, the designation of DT as

²⁶ DT has the highest market shares in 52 of the 112 municipalities, which cover 5.1 million inhabitants, i.e. 73 % of the population of Cluster 4. Two network operators with predominantly cable infrastructure have the highest shares in only 8 municipalities with a total of 343,813 inhabitants. Alternative network operators have the highest shares in 50 municipalities with a total of approx. 1.56 million inhabitants.

²⁷ In Berlin and Munich the coverage of cable networks is [REDACTED].

²⁸ In the reply to the request for information, BNetzA underlines that the market analysis has not revealed sufficiently concrete findings that heterogeneous competitive conditions exist across the country (irrespective of the question of the stability of such competitive conditions). Therefore, as BNetzA explains, the market analysis does not contain elements pointing to a potential differentiation of remedies (which BNetzA will notify at a later stage) and BNetzA is not considering this possibility at the moment.

²⁹ Although admitting that a decreasing trend can be observed, using the two abovementioned modified Greenfield scenarios BNetzA calculated that, in 2017 and 2018, DT still had retail market shares [REDACTED], which are significantly higher compared to the ones of its main competitors. Even after the merger between Vodafone and Unity Media the situation should not significantly change in the period of the review. In 2016, DT's wholesale market share was around [REDACTED] (without self-supply), around [REDACTED] (including self-supply over copper and fibre) and around [REDACTED] (including self-supply over copper, fibre and cable).

³⁰ The merger control case is currently pending before the German Federal Cartel Office.

an undertaking with significant market power would also include this JV (as an affiliated company of DT). In cases of future JVs jointly controlled by DT and (an)other undertaking(s), the extension of DT's SMP designation to such JVs will depend on whether their establishment could be anticipated at the time of market analysis and the parent company other than DT could exercise its procedural rights of defence in the national market review proceedings.³¹ In all other cases, according to BNetzA, extending the SMP designation to JVs jointly controlled by DT will only be possible by way of a new market review.

3. COMMENTS

The Commission has examined the notification and the additional information provided by BNetzA and has the following comments.³²

3.1. Importance of adopting the appropriate indicators when assessing competitive conditions in a geographic area

When delineating the exact geographic boundaries of a relevant market, NRAs should take into account the scope of the potential SMP operator's network and whether the potential SMP operator acts uniformly across its network area or whether it faces appreciably different conditions of competition to such a degree that its activities are constrained in some areas but not in others³³.

The presence of alternative infrastructures (e.g. cable, high-speed fibre networks, and/or in some circumstances even wireless networks), in some geographic areas, is likely to exert competitive pressure on the former incumbent operator. As experienced in many Member States, the increasing investment in alternative infrastructures is often uneven across the territory. In many countries, as it is observed in Germany, there are now competing infrastructures only in parts of the country, typically though not exclusively in urban areas, and therefore the intensity of such competitive pressure varies across the territory of Germany.

Therefore, NRAs are expected, when assessing whether conditions of competition within a geographic area are similar or sufficiently homogeneous, to provide structural and behavioural evidence. In a number of relevant decisions of other NRAs³⁴, the geographic delineation of markets is based on a certain number of indicators, such as the number of operators present in a given geographic unit, their ability to exert a sufficient (even indirect) competitive constraint on the SMP operator when reaching a certain significant coverage, and the distribution of market shares. When such areas are defined and grouped according to the homogeneity in terms of competitive conditions, a further

³¹ BNetzA assumes that any such future joint venture will fall under the SMP designation in cases in which the plan to establish it was sufficiently concrete at the time of the national consultation concerning this market review, in particular when the joint venture had already been notified to the German Federal Cartel Office.

³² In accordance with Article 7(3) of the Framework Directive.

³³ Staff working document accompanying the Communication from the Commission regarding “*Guidelines on market analysis and the assessment of significant market power under the EU regulatory framework for electronic communications networks and services*”. C(2018) 2374

³⁴ See BEREC Report on the application of the Common Position on geographic aspects of market analysis, BoR (18) 213, and more recently cases PL/2019/2160, LT/2019/2183.

analysis of other parameters such as price differences observed in the different areas, the switching behaviour towards non-ubiquitous alternative networks, is usually further investigated in order to verify whether those differences are such to justify the definition of a separate geographic market.

In its analysis of geographic scope of the market, BNetzA considers parameters similar to those described above (i.e. the number of alternative networks) with a view to clustering geographic areas. However, it proposes to adopt a threshold of 10% network coverage in order to identify those areas in which alternative networks are present. The Commission notes that, whereas this threshold may be suitable to consider the presence of an alternative network, it is inadequate to assess whether these alternative networks can exert a competitive pressure on the incumbent, without looking further at variations in local conditions.

Moreover, in BNetzA's geographic analysis, the incumbent's and alternative operators' varying local market shares are not adequately reflected in grouping municipalities into broader geographic areas according to the level of basic homogeneity of competitive conditions. In the notified draft measure, BNetzA only provides, for each (combined) cluster, the incumbent's average market share, which does not reflect the diversity of its market presence at the level of individual municipalities. The same approach is used for the separate grouped analysis of all the municipalities with more than 1 million inhabitants (Berlin, Hamburg, Cologne and Munich) and that of those with at least 500 000 inhabitants. Even in this case, the notified draft measure does not contain detailed information regarding the coverage of alternative infrastructures and the market shares of DT and alternative operators in each of these medium-large and large municipalities taken individually.

In the response to the request for information, BNetzA has supplied further evidence, which provides more insight into the competitive conditions across different areas in Germany. In particular, the additional information provided shows important variations in disaggregated market shares and network coverage of alternative networks particularly in cluster 3 and cluster 4. The Commission notes that in this latter, most competitive, cluster, there are 16 municipalities where the two alternative providers have coverage between 50% and 100% ; and while DT's average market share in this cluster is between [redacted] and [redacted] there are individual, significant municipalities where it is [redacted].³⁵

In conclusion, the criteria adopted by BNetzA provide an analysis that is not sufficiently detailed or robust to identify, even on a forward-looking basis, the actual differences in competitive conditions across the different municipalities. The additional evidence requested by the Commission, shows that in each cluster (in particular in clusters 3 and 4) the competitive situation differs significantly from one municipality to another in terms of coverage of alternative networks and distribution of market shares, in a manner which is not apparent when only aggregated data across a given cluster are considered.

However, based on the static information available, the Commission recognises that even a different approach, more in line with the practice of other NRAs, would most likely lead in the short term to similar conclusions regarding the possibility to identify separate

³⁵ Cologne would be an example: there are two alternative networks (cable and fibre) with coverage respectively of [redacted] and [redacted] and the market shares of DT are [redacted].

geographic markets. In this context, the Commission takes note that there is no evidence of retail price differentiation across the country.

Moreover, the Commission observes that, even when geographic differences in competitive dynamics are not found to be sufficiently clear and stable to define separate geographic markets, they should however be taken into account when assessing appropriate and proportionate remedies³⁶. Finally, the Commission observes that even if at this stage, based on additional data provided by BNetzA in response to the RFI, the outcome of the analysis regarding geographic market delineation would most likely not change under the methodology discussed above, the BNetzA should consider a more dynamic and forward-looking approach when monitoring the evolution of competitive conditions in the market.

Therefore, the Commission urges BNetzA to improve and further substantiate in its final measure the indicators used for the analysis of competitive conditions in each cluster, based on the detailed information submitted in its reply to the Commission's request for information and in particular with reference to the coverage of alternative networks and evolution and distribution of market shares. The Commission calls on BNetzA to consider differentiating remedies on a geographic basis, in order to take into account differences in conditions of competition in the different geographic areas. In any case, the Commission invites BNetzA to carefully monitor the evolution of competitive dynamics on the market and, where appropriate, to review the market even before the end of the standard regulatory period.

3.2. Scope of the SMP designation

The Commission takes note that BNetzA confirms that in the case of a merger control approval of the joint venture between DT and EWE TEL, the designation of DT as an undertaking with significant market power would also include this joint venture (as an affiliated company). However, BNetzA further underlines that, for future joint ventures the extension of the SMP designation to affiliates jointly controlled by DT will essentially depend on whether the other (potential) parent company could exercise its procedural rights during the market review procedure.

However, the Commission considers that the SMP designation is dynamic and extends to entities individually or jointly controlled by the undertaking designated as having SMP and providing the same services as the latter, regardless of whether or not the controlled undertaking existed at the time of the SMP designation and was explicitly identified in the relevant regulatory decision. Moreover, the concept of control should be construed on the basis of principles applied by competition law³⁷. A different interpretation could easily result in regulatory gaming allowing the SMP operator to circumvent the SMP status by simply setting up a new legal entity, which was not formally declared to hold SMP. The risk is therefore that BNetzA's proposed approach to future potential entities set up and controlled by DT could result in an unjustified regulatory vacuum, for an extended period of time.

³⁶ See Case IT/2019/2181.

³⁷ See Council Regulation (EC) No 1/2003 of 16 December 2002 on the [implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty](#) Official Journal L 1, 04.01.2003, pp.1-25. In particular see Art 3(2) of Council Regulation (EC) 139/2004 on the control of concentrations between undertakings (OJ L24 of 29.1.2004, p.1).

Finally, the Commission recalls that the European Electronic Communications Code³⁸ will introduce a number of significant changes in the regulatory framework, as regards *inter alia* the additional regulatory objective of promoting connectivity and access to, and take-up of, very high capacity networks by all Union citizens and businesses.

Therefore, the Commission underlines that its comment is without prejudice to the provisions of the Code to be transposed into national law, establishing predictable rules for lighter regulation for co-investment in new very high capacity networks, in order to incentivize deployment of VHC networks by allowing rival operators to share long-term risk. The Commission invites BNetzA, to closely monitor market developments specifically with regard to possible commitments regarding future cooperative arrangements or co-investment and, in cases when necessary to consider an early review of its market analysis and/or remedies after the transposition deadline of the Code in national law.

Under Article 7(7) of the Framework Directive, BNetzA shall take the utmost account of the comments of other NRAs, BEREC and the Commission and may adopt the resulting draft measure; where it does so, shall communicate it to the Commission.

The Commission's position on this particular notification is without prejudice to any position it may take on other notified draft measures.

Pursuant to point 15 of Recommendation 2008/850/EC³⁹ the Commission will publish this document on its website. In case BNetzA considers that, in accordance with EU and/or national rules on business confidentiality, this document contains confidential information, which you wish to have deleted prior to publication, please inform the Commission⁴⁰ within three working days following receipt and give reasons for any such request.⁴¹

Yours sincerely,

For the Commission
Roberto Viola
Director-General

³⁸ Directive (EU) 2018/1972 of the European Parliament and of the Council establishing the European Electronic Communications Code, OJ L 321, 17.12.2018, p. 36.

³⁹ Commission Recommendation 2008/850/EC of 15 October 2008 on notifications, time limits and consultations provided for in Article 7 of Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services, OJ L 301, 12.11.2008, p. 23.

⁴⁰ By email to CNECT-ARTICLE7@ec.europa.eu.

⁴¹ The Commission may inform the public of the result of its assessment before the end of this three-day period.