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Autorité de Régulation des
Communications Electroniques et
des Postes (ARCEP)

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France

For the attention of:
Mr. Jean-Ludovic Silicani
President

Fax: +33 1 40 47 72 02

Dear Mr Silicani,

Subject: Commission Decision concerning Case FR/2014/1602: Wholesale physical network infrastructure access at a fixed location in France; and

Commission Decision concerning Case FR/2014/1603: Wholesale broadband access in France

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

I. PROCEDURE

On 12 May 2014, the Commission registered a notification¹ from the French national regulatory authority, Autorité de Régulation des Communications Electroniques et des Postes (ARCEP), concerning the fourth review of the markets for wholesale physical network infrastructure access (WPNIA) at a fixed location and wholesale broadband access (WBA) in France.²

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 markets 4 and 5 of the Commission Recommendation 2007/879/EC of 17 December 2007 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 of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Recommendation), OJ L 344, 28.12.2007, p. 65.

The national consultation³ ran from 27 November 2013 to 8 January 2014 and from 19 February 2014 to 26 March 2014.

Requests for information (RFI)⁴ were sent to ARCEP on 19 May and 23 May 2014. The respective replies were received on 22 May 2014 and 26 May 2014. Additional information was received on 27 May 2014.

Pursuant to 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.

II. DESCRIPTION OF THE DRAFT MEASURE

II.1. Background

In 2011, ARCEP designated France Telecom (FT) as the SMP operator on (i) the market for wholesale physical network infrastructure access (including copper and fibre physical infrastructures as well as access to civil engineering infrastructure), and (ii) on the market for wholesale broadband access including DSL and fibre-based WBA services. Broadband services delivered over cable TV networks were excluded from the two relevant markets.

France Telecom was subject to the full set of remedies with regard to its copper lines on the two markets. However, no SMP remedies were proposed for France Telecom's fibre infrastructure (except for access to civil engineering infrastructures) and ARCEP discarded in particular the imposition of fibre unbundling and fibre-bitstream in view of the symmetrical regulation implemented in France in the context of the legislation on network sharing. The latter is characterised by the organisation of co-investments schemes for rolling out FTTH networks in very dense areas (where only the in-house wiring is subject to co-financing) and in less dense areas (where a larger part of the terminating segment is subject to co-financing) in France. To that end, a very detailed symmetrical access regulation has been put in place requesting the operator building the infrastructure to provide a wholesale passive access to the operators participating in the co-financing (*ab initio* or *ex post*) and as well individual line rental to the access seekers on an *ad hoc* basis.⁵

The Commission has critically assessed this regulation in previous cases⁶ and has in particular asked ARCEP to ensure that the localisation of the concentration point where a passive access is granted is commercially viable for access seekers and to set more

³ In accordance with Article 6 of the Framework Directive.

⁴ Pursuant to Article 5(2) of the Framework Directive.

⁵ In 2008, France adopted a law ("Loi de Modernisation de l'Economie", LME), which resulted in the addition of Article L. 34-8-3 to the French telecoms law ("Code des Postes et des Communications Electroniques", CPCE) which foresaw the obligation to share in-building fibre wiring. Furthermore, ARCEP adopted a series of Decisions and Recommendations to organise co-investments into FTTH networks, lay down the general terms and conditions for access to fibre lines, the location of the local connection point, and also specified the details of the access obligation applicable in and outside the "very densely populated areas". Those have been identified by ARCEP as being municipalities where, on a large part of the relevant territory, infrastructure competition is susceptible to emerge, *i.e.* where it is economically viable for several operators to roll out their own fibre access network in the proximity of the dwelling.

⁶ Case FR/2009/0993 (SG-Greffe (2009) D/8543), case FR/2010/1144 (SG-Greffe (2010) D/18751) and FR/2011/1213-14, SG-Greffe (2011) D/8477.

precisely the pricing terms and conditions of access to the terminating segments and ancillary remedies. Furthermore, the Commission has invited ARCEP to re-assess the need, in line with the NGA Recommendation, to impose fibre access remedies in both markets and asked ARCEP to better assess the differences in competitive conditions between geographic areas – especially the constraints stemming from newly built FTTH and coaxial cable networks – in order to impose or adapt SMP regulation accordingly. ARCEP was also asked to monitor the substitutability between cable-bitstream and DSL-bitstream, and to modify the proposed market definition if appropriate. Finally, the Commission asked ARCEP to better justify the appropriateness of the non-eviction obligation imposed on France Telecom with regard to its business customers offer.

II.2. Description of the draft measure

II.2.1. Market definition

Similarly to its previous market analysis, on the retail broadband market ARCEP distinguishes between the provision of broadband services and the provision of high speed broadband services.⁷

As to wholesale (physical) network infrastructure access, ARCEP includes in the relevant market fully unbundled and shared access to local copper loops and sub-loops, access to civil engineering infrastructure (including overhead cables and underground infrastructure), and passive access to fibre local loops provided at a concentration point by operators or by local authorities in the context of network sharing. Access delivered over cable networks, wireless or other alternative technologies, as well as active types of access (bitstream) are excluded. ARCEP considers the relevant WPNIA market to be national in scope.

As to wholesale broadband access, ARCEP includes in the relevant product market wholesale access for the provision of broadband and high speed broadband services provided - at regional access points - over copper-based DSL infrastructures, fibre-based infrastructures (FTTx)⁸ and coaxial cable networks⁹, independently of the interfaces' technology. WBA access provided at a single national point, leased lines and access delivered over alternative technologies (e.g. WIMAX, WiFi, satellite, power lines) and over passive fibre access offers are excluded from the market. Furthermore, ARCEP proposes to refine the boundaries between market 5 and market 6 given that there is evidence of a strong differentiation occurring in France between standard mass-market bitstream and bitstream access tailored for specific business purposes with high quality requirements. Accordingly, ARCEP proposes to no longer include in market 5 DSL bitstream access with guaranteed repair times (under 4 hours) and include it instead in market 6. ARCEP considers the relevant WBA market to be national in scope although competitive conditions vary depending on the number of network operators who are in

⁷ According to ARCEP, the notion of high speed broadband services is relative but should be understood, at this point in time, as encompassing retail offers with speeds above 30 Mbit/s (download) which are usually delivered in France over fibre (FttLA –Fibre to the Last Amplifier, FTTH - Fibre To The Home) but can also be provided over copper (VDSL2).

⁸ Several FTTx operators are offering a bitstream access available in the footprint of their network rollout.

⁹ ARCEP indicates that Numericable provides a bitstream service over its FttLA network enabling access seekers (e.g. Bouygues) to provide retail services substitutable in terms of prices and quality to DSL-based services. The increasing use at end users' premises of boxes compatibles with FttLA technology also enables access seekers to switch more easily to the coaxial cable bitstream offer. Numericable's bitstream offer concerns around 8 million households and is increasingly provided at regional level.

the position to offer a LLU-based bitstream.¹⁰

II.2.2. Finding of significant market power (SMP)

ARCEP points to criteria including market shares, the control of an infrastructure not easily duplicable, the vertical integration of Orange and the absence of potential competition.

With regard to the WPNIA market, ARCEP finds that Orange has more than 99% of the copper access loops in France and that alternative operators would have limited options to deploy their networks without making use of Orange's civil engineering infrastructure. Although the deployment of FTTx networks has started outside the very densely populated areas and an increasing number of households are falling into the footprint of the co-investments in FTTH networks, ARCEP indicates that alternative operators' countervailing buyer power remains limited.

With regard to the WBA market, ARCEP finds that although Orange's market share has decreased -given that alternative operators are increasingly providing bitstream products based on LLU or on their own FTTH or coaxial networks- it remains overall around [...]%. ARCEP recognises, however, the difference in competitive conditions between the two abovementioned geographic areas.¹¹

II.2.3. Regulatory Remedies

ARCEP proposes to impose on Orange the following obligations:

Wholesale (physical) network infrastructure access

(i) Access, migration and ancillary services

Orange is required to meet alternative operators' reasonable request and grant them unbundled access to copper loops and sub-loops, (i.e. with tailored wholesale offers for serving residential customers and for serving business customers), and access to its civil engineering infrastructure. With regard to sub-loop unbundling, Orange must provide on reasonable request access seekers with collocation of their active equipment at the new access points (i.e. injection point) and with a fibre backhaul link to the Main Distributions Frames (MDFs).¹²

Orange is requested not to de-commission its MDFs and street cabinets until a shared fibre network has been deployed in the area concerned and allows the provision of services to all end-users which could be served through the copper network. Unless an agreement is concluded between Orange and the access seekers on an appropriate migration path, closure of MDFs or street cabinet will be subject to a five years prior notice.

Furthermore, Orange is requested to provide a range of ancillary services to enable

¹⁰ ARCEP identifies a geographic area where only one operator is able to provide a bitstream offer and a second geographic area where several operators are able to provide such a product. ARCEP stresses that precise and stable boundaries between the two areas cannot be distinguished since the number of unbundled MDFs may substantially change in the timeframe of the current market analysis. See as well Section II.2.3 (WBA) (iii).

¹¹ The competitive situation is very different in areas where Orange is the only wholesale provider, where it *de facto* holds 100% of the wholesale market shares, and the other areas where cable (covering 40% of the households) or LLU operators (covering 88% of the households) are present.

¹² ARCEP considers a request not to be reasonable if it concerns cabinets too close to the MDF since this could impact VDSL2 deployment (i.e. bi-injection context).

access seekers to use its copper and fibre local loop.¹³ To that end, Orange is requested to maintain and improve the provisioning of its current commercial backhaul offer (LFO) for providing a fibre link between two MDFs and between an MDF and an alternative operator's point of presence (PoP).¹⁴

As to FTTH networks regulation, ARCEP refers to the symmetrical regulation implemented in France in the context of the network sharing legislation applicable to in-building fibre wirings (a wholesale access offer at the concentration point is available), which is in the process of being complemented.¹⁵ ARCEP does not consider it justified or proportionate to impose additional SMP obligations given the development of competition induced by the co-investment agreements¹⁶, which are subject to sufficient control.¹⁷

(ii) Non-discrimination, technical replicability, transparency, and quality of service

Orange is requested to provide access seekers with a set of wholesale offers covering backhaul, co-location and unbundling services under non-discriminatory terms and conditions.

ARCEP proposes to maintain on Orange the obligation to provide access to its civil engineering infrastructure on an Equivalence of Input (EoI) basis.¹⁸ ARCEP considers it disproportionate to impose on Orange the obligation to provide legacy copper-based wholesale inputs on an EoI basis. ARCEP proposes, however, to impose on Orange a set of non-discrimination remedies including the implementation of Key Performance Indicators (KPIs)¹⁹ and the obligation to ensure technical replicability of any new retail offers provided on its copper local loop or sub-loops and, in particular, Orange « triple play » DSL offers. To that end, Orange is to provide a set of wholesale offers covering backhaul, co-location and unbundling services enabling the alternative operators and Orange to provide end users with linear TV services under equivalent operational

¹³ A set of rules concerning the delivery and operational processes for copper- and fibre-based access has been defined.

¹⁴ In this respect, Orange is required, in particular, to implement reasonable tariffs and enable access seekers to connect their copper or fibre networks.

¹⁵ ARCEP indicates in its reply to the request for information that some discussions have started with the relevant stakeholders to adopt, before the end of 2014, an additional symmetrical decision on the operational implementation of network sharing. ARCEP indicates that such a decision will be notified to the Commission following the Article 7 consultation procedure.

¹⁶ ARCEP explains in its reply to the request for information that in Q1 2014 3.15 million households are passed by FTTH networks, 90% being rolled-out by co-investors. 53% of those households have been connected (compared to 39% in year 2011) and have the choice between a least 2 retail FTTH-based offers. The majority of the remaining 47% have access to retail broadband services provided over coaxial cable or by VDSL. Furthermore, ARCEP indicates that FTTH wholesale services are still constrained by copper-based accesses.

¹⁷ ARCEP explains that a risk of market pre-emption or market sharing by co-investors is non-existent given the fact that the first operator to rollout the FTTH network (i.e. the building operator) can only offer its retail services three months after it has made available a wholesale access product. Furthermore, ARCEP recalls some principles (scrutinized by the Competition authority) that are governing at least one co-investment scheme (Orange/SFR) and include *inter alia* the implementation of Chinese walls between the co-investors' network and business operations and the obligation for each operator to propose retail offers on the entire footprint of the deployed FTTH network.

¹⁸ ARCEP explains that this obligation has been imposed on Orange since 2008. Under this obligation, Orange is required to transmit to ARCEP the internal purchase contract between its wholesale and retail arm showing that the same command, process and engineering rules are used.

¹⁹ ARCEP explains that SLAs and SLGs are already routinely included in Orange's wholesale offers.

conditions²⁰.

Furthermore, Orange is subject to a transparency obligation including the publication of a Reference Unbundling Offer, a Reference Offer for access to the civil engineering infrastructure, as well as some information on specific services²¹.

(iii) Price regulation, cost accounting, and accounting separation

ARCEP intends to impose on Orange an obligation to apply cost oriented prices for access to local copper loops and sub-loops, civil engineering infrastructure used for fibre local loops and ancillary services. ARCEP clarifies in the reply to the request for information that price control for access to the copper local loops is based on “coûts courants économiques” as amended in 2012²² in order to i) take into account the fact that the physical lifetime of civil engineering is longer as compared to the level anticipated in 2005, ii) send a strong signal on the copper-to-fibre transition, and iii) limit the increase in LLU unit costs, which would otherwise penalise the last copper users. ARCEP further stresses that LLU prices are rather stable over time: after a decrease to 8.80 euros/month in 2012 (from 9 euros in 2009-2011), the current 2014 LLU price is 9.02 euros/month. With regard to the costing model for FTTH networks subject to symmetrical regulation, ARCEP indicates that a public consultation with the network operators as well as the municipalities on this matter started on 16 May 2014.²³

In addition, a cost accounting and accounting separation obligations are proposed with respect to Orange's copper and passive fibre wholesale offers.

Wholesale broadband access

(i) Access

Orange is obliged to meet reasonable requests for access to its copper network. For that purpose, Orange shall maintain the wholesale broadband offers currently in place and ensure that WBA is available at different levels of the network: IP, ATM, and Ethernet. Orange shall furthermore offer WBA services (including functionalities for providing non-linear TV broadcasting services in the LLU operators' areas) to residential and business customers, naked DSL access and bitstream access for the purpose of connecting Mobile Switching Centres. Orange shall also grant access to associated facilities, including backhaul and collocation, and provide the relevant information, as well as the appropriate migration procedures.

ARCEP does not mandate fibre-based bitstream access. In this regard, it explains that access to civil engineering infrastructures, coupled with symmetrical regulation, have so far led to lower entry barriers on the wholesale access markets and fostered, especially in dense areas, parallel fibre network rollout.²⁴ Furthermore, ARCEP notes that Numericable proposes a commercial bitstream offer over its coaxial-based network (upgraded to Docsis 3.0), which is available to access seekers in a large footprint in urban

²⁰ ARCEP clarifies in the reply to the RFI that it will ensure that the timeframe before the launch of Orange's retail TV offers enables LLU operators to adequately replicate this service.

²¹ In particular, the terms and conditions of the LFO offer and the access, collocation and backhaul concerning the new injection point in case of sub-loop unbundling.

²² ARCEP decision n° 05-0834 as modified by ARCEP decision 2012-0007.

²³ Arcep indicates in its reply to the request for information that they will notify to the European Commission the costing model once adopted.

²⁴ In dense areas around 60% of the households have today the choice between at least two operators for fibre-based retail broadband services.

and semi-urban areas.²⁵ In rural areas where limited fibre network deployment has so far occurred, ARCEP indicates that publicly-funded FTTH networks initiated by municipalities are required to provide bitstream offers.²⁶ Finally, ARCEP explains that copper-based bitstream offers provided nationally by Orange – but also locally by alternative LLU operators on a commercial basis - are available as well. In light of the above, ARCEP does not mandate fibre-based WBA but will monitor the market developments.

(ii) Non-discrimination, technical replicability, transparency, and quality of service

Orange is required to provide WBA access on an Equivalence of Output (EoO) basis, i.e. to ensure that the access inputs as well as the operational and technical processes are provided to the access seekers in a comparable way as to its own retail arm. To that end, Orange must identify and transmit to ARCEP on request all information relating to the relationships between its wholesale and retail entities and the operational and technical processes used. Furthermore, Orange must ensure technical replicability of any new retail offer (including bundles) provided over DSL WBA, implement KPIs, and publish a Reference Offer for the provision of WBA.

(iii) Price regulation, cost accounting and accounting separation

ARCEP proposes to differentiate price remedies according to the two geographic areas characterised by different competitive conditions, as identified in the product market definition. In the geographic areas where Orange is the only operator providing DSL WBA, ARCEP considers it justified and proportionate to impose an obligation on Orange to apply cost oriented prices.²⁷ In the geographic areas where at least one alternative operator, in addition to Orange, provides a wholesale bitstream offer (based on LLU or on alternative infrastructures such as FTTx or cable), ARCEP explains that there is a sufficient constraint on Orange's access tariffs and as a result, it proposes to not impose *ex ante* price regulation.²⁸ ARCEP will thus intervene *ex post* only in case of eviction tariffs. ARCEP intends to yearly revise the boundaries of the two geographic areas on the basis of Orange's cost data.

Finally, ARCEP intends to maintain cost accounting and accounting separation on Orange's copper and passive fibre wholesale offers.

III. COMMENTS

The Commission has examined the notification and the additional information provided

²⁵ Numericable's footprint encompassing more than 8.5 million households is wider than the footprint of the FTTH networks currently in deployment phase.

²⁶ In the reply to the RFI, ARCEP explains that all the recipients of State aids granted in accordance with the Plan Très Haut Débit are required to provide on reasonable request a bitstream access, i.e. when the access seeker presents a coherent business plan justifying the provision of a bitstream product in the given area, ii) the access seeker has not the financial means to install its own active equipment, and iii) there are no bitstream provided by a private operator in the same area at an access rate equivalent to the offers provided in dense areas.

²⁷ ARCEP explains that access rates should be based on the long term incremental costs of an efficient operator (whose characteristics are comparable to those of Orange) and will monitor the pricing for the backhaul, in particular given that this is critical for access seekers to provide cost-effective non-linear TV services.

²⁸ In the reply to the RFI, ARCEP provides the retail broadband market shares distribution, which shows that in the footprint of those MDFs where Orange is not the only WBA provider, Orange's market share is on average below [...] %.

by ARCEP and has the following comments:²⁹

Need to ensure coherence between symmetrical and asymmetrical fibre regulation

The Commission notes that ARCEP proposes not to impose, at this stage, asymmetrical access regulation on Orange's fibre network (except for civil engineering infrastructures) in view of the French network sharing legislation applicable to in-building fibre wirings.

The Commission takes note of ARCEP's argument that symmetrical wholesale access regulation imposed in the context of the FTTH network deployments seeks to promote infrastructure competition and is adequate to ensure fibre-based competition to develop in France. ARCEP provides some evidence that even where operators did not deploy their own FTTH networks (as part of a co-investment scheme), they can rely on wholesale passive fibre access at the concentration point, or on fibre-based bitstream access³⁰, although the Commission understands that a large share of the latter is probably provided by cable providers (FttLA) on a commercial basis.

In this respect, the Commission notes ARCEP's argument that the SMP operator appears constrained by the coaxial cable operator, whose network has been almost entirely upgraded and whose footprint is still larger than that of the SMP operator's FTTH network in urban and semi-urban areas, as well as by the municipal fibre networks which are providing bitstream access (regulated under state-aid schemes) in rural areas. In particular, ARCEP stresses that a bitstream product – largely used by Bouygues - is available on Numericable's coaxial network, whose footprint is covering 8.5 million households (i.e. circa 40 % of the total number of households). ARCEP further indicates, in its reply to the request for information, that in Q1 2014 a fibre-based bitstream was already offered by municipal networks on 220,700 FTTH lines while it is expected that within the next three years up to 3 million households in France will be served by municipal fibre networks.³¹

The Commission can therefore follow ARCEP's argumentation that in the present circumstances the additional imposition of SMP access remedies would not be justified or proportionate, given that alternative infrastructures and competitive access offers (including on the basis of unbundling) currently present in the wholesale market are likely to result in effective competition at retail level.

However, the Commission would like to stress that, despite the strong increase of FTTH lines rolled out in the last months, France is still lagging behind the EU average in terms of NGA deployment –especially outside the very densely populated areas- as evidenced in the European Commission's Digital Agenda Scoreboard 2014.³² Furthermore, the Commission would like to highlight that

²⁹ In accordance with Article 7(3) of the Framework Directive.

³⁰ In its reply to the request for information, ARCEP indicates that 37% of the fibre-based retail broadband services were provided via a FTTH wholesale access in Q1 2014. This number has grown steadily since 2012 when it was accounting for only 21%.

³¹ ARCEP indicates that this forecast will be met only if the plans for municipalities' digital deployment are fulfilled. Furthermore, ARCEP explains that at this stage it is difficult to know according to which footprint municipalities would provide bitstream offers.

³² See <https://ec.europa.eu/digital-agenda/en/scoreboard/france>. The Digital Agenda Scoreboard 2014 – France country profile indicates that DSL infrastructure remains of particular importance as far as

ARCEP should remain attentive to changes in the level of fibre-based access competition during the market review period. Irrespective of the outcome of the pending acquisition process of a major LLU player by a coaxial cable-based wholesale broadband access provider or of any other possible transaction, the Commission wishes to observe that the market structure at any given moment could have an impact on the strategy of the various operators to deploy FTTH networks and on the availability of adequate wholesale access offers. In this regard the Commission points out that the risk of market partitioning by co-investing operators would increase in the event of greater market concentration and requires careful monitoring by the NRA and NCA. This concerns, in particular, the availability of retail broadband access offers by all co-investing parties without undue delay following the joint deployment of the in-house wiring.

At the same time, the Commission recognizes the constraints on fibre-based access products stemming from copper-based access products but highlights that they may not remain as strong in the medium term as high speed broadband services are increasingly delivered in France over FTTH networks, enabling higher bandwidth and quality of service.

The Commission therefore calls on ARCEP to monitor market developments and adjust its access regulation before the end of the market review period, if appropriate. Especially in the less densely populated areas, which will largely remain outside the cable operator's footprint, and in the absence of a municipal FTTH network, it may not be cost-effective for operators to take the passive fibre-based access offers at the concentration point. Against this background, the Commission invites ARCEP to monitor the effectiveness of the symmetric access obligations and reconsider, if needed, the imposition of fibre-based bitstream in the non-cabled areas where a fibre monopoly may arise, which does not deliver an adequate competitive outcome for access seekers to deliver very high speed retail broadband services.

Pursuant to Article 7(7) of the Framework Directive, ARCEP may adopt the draft measure and, 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 *vis-à-vis* other notified draft measures.

Pursuant to Point 15 of Recommendation 2008/850/EC³³ the Commission will publish this document on its website. The Commission does not consider the information contained herein to be confidential. You are invited to inform the Commission³⁴ within three working days following receipt whether you consider that, in accordance with EU and national rules on business confidentiality, this document contains confidential

competition is concerned. At the end of 2013, fixed broadband covered 100% of homes in France (97% in the EU) but at the same time, Next Generation Access capable of providing at least 30 Mbps download was only available to 41% of homes (62% in the EU). While ultra-fast connections (providing at least 100 Mbps) accounted for 5% of all subscriptions (5% in the EU), the share of high speed connections (providing at least 30 Mbps) was lower than the EU average (8% compared to 21% in the EU).

³³ 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.

³⁴ Your request should be sent either by email: CNECT-ARTICLE7@ec.europa.eu or by fax: +32 2 298 87 82.

information which you wish to have deleted prior to such publication.³⁵ You should give reasons for any such request.

Yours sincerely,
For the Commission,
Robert Madelin
Director-General

³⁵ The Commission may inform the public of the result of its assessment before the end of this three-day period.