



EUROPEAN COMMISSION

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Post & Telestyrelsen
P.O. Box 5398
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ATT:
Ms Marianne Treschow
Director General

Fax: 0046-8-678 57 03

Dear Ms Treschow,

Subject: Case SE/2005/0266: Broadcasting Transmission Services – imposition of remedies related to market analysis previously notified in case SE/2005/0188

Article 7(3) of Directive 2002/21/EC¹: No comments

I. PROCEDURE

On 20 October 2005, the Commission registered a notification by the Swedish regulatory authority, Post och Telestyrelsen (“PTS”), concerning the imposition of remedies in the markets for broadcasting transmission services in Sweden. The national consultation concerning the proposed regulatory remedies was carried out in June-August 2005.²

PTS has previously notified and the Commission has assessed the analysis of relevant markets for broadcasting transmission services and the designation of companies with significant market power.³ PTS designated Teracom AB – the only provider of nationwide terrestrial broadcasting transmission services in Sweden – as having SMP in the wholesale markets for the transmission of (1) *analogue terrestrial television*, (2) *digital terrestrial television* and (3) *national analogue terrestrial radio*. The current notification

¹ 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 (“the Framework Directive”), OJ L 108, 24.4.2002, p. 33.

² In accordance with Article 6 of the Framework Directive.

³ Commission decision of 8 June 2005 in case SE/2005/0188 (SG-Greffe (2005) D/202544).

concerns the remedies which PTS proposes to impose on Teracom in these relevant markets.

Pursuant to Article 7(3) of the Framework Directive, national regulatory authorities (“NRAs”) and the Commission may make comments on notified draft measures to the NRA concerned.

II. DESCRIPTION OF THE DRAFT MEASURES

PTS intends to impose the following remedies on Teracom pertaining to the three wholesale markets mentioned above:

Access obligation

Teracom will be required to accept every reasonable request for access to its networks from parties with the ability and intention to distribute broadcasting content to end users via the digital terrestrial television network, the analogue terrestrial television network or the analogue terrestrial radio network.⁴ Teracom shall upon request make available to the other party all information which is relevant and necessary to conclude an access agreement.⁵

Price regulation

Teracom shall be obliged to charge cost-oriented prices according to the fully distributed cost (“FDC”) method. According to the FDC method, the price for the access service shall be based on actual historic costs. When it is unlikely that a competitor establishes a parallel infrastructure (in the form of masts etc.), it is in PTS’ view appropriate to calculate the access price on the basis of historic cost. Moreover, since the price is based on accounted costs, it is possible for PTS to verify whether the price charged by Teracom is justified.

Non-discrimination

The access service shall be provided on non-discriminatory terms. Services and information offered to third parties shall be provided on equal terms as those provided to Teracom itself, its subsidiaries or partners.

Accounting separation

Accounts for the access service shall be kept separate from the accounts for other services provided by Teracom. Moreover, accounts and prices for access services provided internally shall be kept separate from access services provided externally.

⁴ As regards the wholesale market for *digital* terrestrial television broadcasting, access to Teracom’s network may either consist of *physical access* to the technical infrastructure – i.e. the accessing party performs the actual broadcasting himself using his own equipment co-located in Teracom’s infrastructure – or of a *wholesale product*. In the latter case, the accessing party will be connected to Teracom’s infrastructure at one or several access points and Teracom will provide the digital broadcasting service using its own equipment. As regards the *analogue* networks for radio and television, Teracom will only be obliged to provide a wholesale product and not physical access.

⁵ Such information shall include *inter alia* key technologies, pricing and time necessary to connect the access seeker to Teracom’s network.

III. NO COMMENTS

The Commission has examined the notification and has no comments.⁶

Pursuant to Article 7(5) of the Framework Directive, PTS may adopt the resulting 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 12 of Recommendation 2003/561/EC, the Commission will publish this document on its website.⁷ The Commission does not consider the information contained herein to be confidential. You are invited to inform the Commission within three working days following receipt of the present letter whether you consider, in accordance with Community and national rules on business confidentiality, that this document contains confidential information which you wish to have deleted prior to such publication. You should give reasons for any such request.⁸

Yours sincerely,

For the Commission,
Neelie Kroes
Member of the Commission

⁶ Pursuant to Article 7(3) of the Framework Directive.

⁷ Commission Recommendation 2003/561/EC of 23 July 2003 on notifications, time limits and consultations provided for in Article 7 of Directive 2002/21/EC, OJ L 190, 30.7.2003, p. 13.

⁸ Your request should be sent either by email: INFSO-COMP-ARTICLE7@cec.eu.int or by fax: +32-2-298 87 82.