

Brussels, 1 March 2010

Antitrust: Commission sends Statement of Objections to Telekomunikacja Polska S.A.

The European Commission has sent today a Statement of Objections (SO) to the Polish telecoms incumbent operator - Telekomunikacja Polska S.A. (TP). The SO outlines the Commission's preliminary view that TP has abused its dominant position by refusing to supply remunerated access to its wholesale broadband services.

On 17 April 2009 the Commission initiated proceedings following indications that Telekomunikacja Polska was abusing its dominant position in the Polish wholesale broadband services market. Article 102 of the Treaty on the Functioning of the European Union prohibits abuses of dominant positions.

In the SO, the Commission outlines its preliminary conclusion that TP has refused to supply (remunerated) access to its network, at various stages of the process.

Access to TP's wholesale broadband services is crucial for alternative operators wishing to provide retail services to end-users in Poland. As a result of TP's conduct, they have had to undergo a lengthy and burdensome process to access the network of the Polish incumbent operator. Alternative operators were faced with delaying tactics and unreasonable conditions, among others, and TP also refused to provide the information they needed to be able to make sound business decisions and operate efficiently. This has hindered the development of the broadband retail market in Poland.

The telecommunications market was fully open to competition in 2002 in the EU and since accession in 2004 in Poland. Under the liberalisation and competition rules, new market entrants – so-called alternative operators - may need to have access, against remuneration, to the network and services of the incumbent operator. Market opening and competition allow greater choice of services and more competitive prices for consumers as well as the creation of more companies and job opportunities.

TP has eight weeks to reply to the SO, and will then have the right to be heard in an Oral Hearing. If the preliminary views expressed in the SO are confirmed, the Commission will require TP to cease the abuse and may impose a fine.

Procedural background

A Statement of Objections is a formal step in Commission antitrust investigations in which the Commission informs the parties concerned in writing of the objections raised against them. The addressee of a Statement of Objections can reply in writing to the Statement of Objections, setting out all facts known to it which are relevant to its defence against the objections raised by the Commission. The party may also request an Oral Hearing to present its comments on the case. The Commission may then take a decision on whether the conduct addressed in the Statement of Objections is compatible or not with the EU antitrust rules. Sending a Statement of Objections does not prejudice the final outcome of the procedure.