

EUROPEAN COMMISSION

Directorate-General for Communications Networks, Content and Technology

Electronic Communications Networks and Services
Director

Brussels,
CNECT/B1/MB/vr

Danielle Jacobs,
Chairman of the Board INTUG
danielle.jacobs@intug.org

Dear Mrs. Jacobs, *Dean Danielle,*

I would like to thank you for the email you sent to Vice-President Kroes on 25 February 2014. Mrs. Kroes has asked me to reply on her behalf.

In your email, you are referring to Apple's restrictive practices on 4G networks. More particularly, you are describing how Apple's policy leaves iPhone users wanting 4G connectivity with no choice except to buy access from the mobile networks certified by Apple, thus eliminating competition, and how this commercial policy runs against the Digital Agenda for Europe, the harmonisation rules on spectrum and consumer protection principles. As a consequence, you are saying both Apple and Apple iPhone resellers should be informed that they have a legal obligation to properly inform potential buyers of the network limitations of the product which they offer. Finally, you point out to the fact that INTUG believes regulatory steps should be taken to stop this limitation of 4G network provider choice for iPhone users.

Let me first underline that the Commission considers the wide availability of state-of-the-art mobile services including speeds offered by 4G networks to consumers and businesses as of key importance for the development of digital services in Europe. This is in line with the objectives of the Connected Continent package¹ that addresses current limitations with regard to the availability of 4G mobile services in Europe in particular concerning the lack of handset capabilities due to inconsistent spectrum assignments among Member States.

As you rightly point out, the Belgian legislator, in close collaboration with BIPT, has drafted a legislative proposal aimed at banning the kind of practice you describe. In this

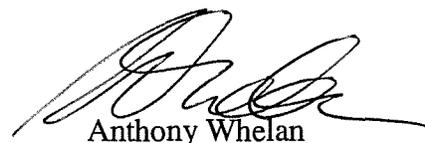
¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the Telecommunications Single Market - COM(2013) 634

regard, this proposal adds a subparagraph to the current Article 36, paragraph 1, of the Act of 13 June 2005 on Electronic Communications² according to which a manufacturer or person responsible for commercializing equipment on the Belgian market may not, without technical cause, hinder or impede such equipment from being connected to any interface suitable and using radio frequencies, the user rights of which are granted by the Institute in accordance with Article 18 of the afore-mentioned Act. I understand that this proposal was adopted by the Belgian Senate on 13 March 2014 and that final adoption should follow in the forthcoming weeks.

While this should probably solve the issue in Belgium, the Commission will continue monitoring the situation in other Member States, in particular under consumer and competition law.

I thank you for bringing this to my attention.

Yours sincerely,



Anthony Whelan

² Loi du 13 juin 2005 relative aux communications électroniques, M.B du 20 Juin 2005, p. 28070.