

## **Summary notification form**

relating to draft decisions of the Authority for Consumers and Markets (ACM) with respect to the relevant markets for:

Call termination on individual public telephone networks provided at a fixed location (**market 3**)  
“fixed voice termination”

and

Voice call termination on individual mobile networks (**market 7**) “mobile voice termination”

In accordance with article 6b.2 of the Netherlands Telecommunications Act and article 6 and 7 of the Framework directive, ACM notifies draft measures, which would affect trade between Member States to the Commission of the European Communities, BEREC and to the national regulatory authorities. The Commission, BEREC and the national regulatory authorities have the opportunity to make comments to ACM.

This summary notification form relates to the draft decision of ACM with respect to the markets for fixed and mobile voice termination (ACM/DTVP/2013/202441).

Comments to this draft measure can be sent to: [MA-gespreksafgifte@acm.nl](mailto:MA-gespreksafgifte@acm.nl).

### **Draft market analysis decision for fixed and mobile voice termination**

This notification concerns the draft decision for fixed and mobile voice termination on individual networks (market 3 and 7 of the EC recommendation on relevant markets). In the market analysis all operators offering fixed and mobile voice termination are found to have SMP. Obligations are imposed on all operators, these include: symmetric tariff regulation (price caps), access and transparency obligations.

The draft decision will be uploaded to the CIRCA website, related annexes can be downloaded from ACM's website at [www.acm.nl](http://www.acm.nl) (in Dutch)

Comments to this draft measure can be sent to [MA-gespreksafgifte@opta.nl](mailto:MA-gespreksafgifte@opta.nl).

The Hague, 2 July 2013

## Section 1

### Market definition

#### 1.1 *The affected relevant product/service market.*

Call termination on individual public telephone networks provided at a fixed location (**market 3**)  
“Fixed Voice Termination”

Voice call termination on individual mobile networks (**market 7**) “mobile voice termination”

#### 1.2 *The affected relevant geographic market.*

The Netherlands.

#### 1.3 *Summary of the opinion of the Netherlands Competition Authority*

N/a, ACM is also the competition authority in the Netherlands.

#### 1.4 *Overview of the results of the public consultation to date on the proposed market definition*

According to KPN and T-Mobile ACM did not take Over-The-Top services (OTT) sufficiently into account. ACM does not consider OTT as substitute for voice termination.  
According to T-Mobile traffic terminated on the numbers meant for machine-to-machine traffic should not be regulated. The traffic is only regulated for as far as it concerns the termination of voice traffic.

#### 1.5 *Differences with the Commission Recommendation on relevant markets*

None.

## Section 2

### Designation of undertakings with significant market power

2.1 *Name(s) of the undertaking(s) designated as having individually or jointly significant market power or where applicable, the name(s) of the undertaking(s) which is (are) considered to no longer have significant market power.*

	<b>Operators offering fixed and/or mobile termination</b>	<b>FTA</b>	<b>MTA</b>
1	Algemeen Beheer Nederland	X	
2	Aspider Solutions Nederland B.V.		X
3	ACN Europe B.V.	X	
4	Barablu Benelux Ltd	X	X
5	BT Nederland N.V.	X	
6	CAIW Diensten B.V.	X	
7	Colt Telecom B.V.	X	
8	Coolwave Communications B.V.	X	
9	Dean Connect B.V.	X	
10	Delta N.V.	X	
11	Easynet Nederland B.V.	X	
12	EDPnet B.V	X	
13	Edutel B.V.	X	
14	Elephant Talk Communications	X	X
15	EspritXB	X	
16	Global Call B.V.	X	
17	Global-E B.V.	X	
18	GnTel B.V.	X	
19	Hilf Telecom B.V.	X	
20	Infopact Netwerkdiensten B.V.	X	
21	Intercity Mobile Communications B.V.	X	X
22	KabelNoord	X	
23	Kabeltex	X	
24	Koninklijke KPN N.V.	X	X
25	Lancelot B.V.,	X	
26	Lycamobile Netherlands Ltd.		X

	<b>Operators offering fixed and/or mobile termination</b>	<b>FTA</b>	<b>MTA</b>
27	Orange Business Netherlands B.V.	X	
28	PLEX Telecom B.V.	X	
29	Private Mobility Nederland B.V.	X	X
30	RoutIT B.V.	X	
31	Scarlet Telecom B.V.	X	X
32	Schiphol Telematics	X	
33	Solcon Internetdiensten B.V.	X	
34	SpeakUp B.V.	X	
35	Tele2 Nederland B.V.	X	X
36	Teleena Holding B.V.	X	X
37	Telio Netherlands B.V.	X	
38	Tismi B.V.	X	
39	T-Mobile Netherlands B.V.	X	X
40	UPC Nederland B.V. (Liberty Global Europe N.V.)	X	
41	U-wiss B.V.	X	
42	Verizon Nederland B.V.	X	
43	Vodafone Libertel B.V.	X	X
44	Voiceworks B.V.	X	X
45	Wavecrest Netherlands B.V.	X	
46	Ziggo B.V.	X	
	<b>Totaal aantal</b>	<b>42</b>	<b>14</b>

2.2 *Criteria relied upon for deciding to designate or not an undertaking as having individually or jointly with others significant market power.*

Market share, countervailing buyer power, entry barriers and potential competition.

2.3 *Name of the main undertakings (competitors) present / active in the relevant market.*

See 2.1.

2.4 *Market shares of the undertakings mentioned above and the basis of their calculation (e.g., turnover, number of subscribers).*

Market share all operators: 100%

2.5 *Summary of the opinion of the national competition authority where provided.*

N.a.

2.6 *Summary of the results of the public consultation to date on the proposed designation(s) as undertaking(s) having significant market power (e.g., total number of comments received, numbers agreeing/disagreeing).*

Nine operators have responded to the national consultation. UPC disagrees with designation of SMP of all other operators except KPN. KPN argues that OTT is insufficiently taken into consideration. The other fixed operators mainly agree with the decision. The mobile operators (MNO's) oppose the choice of (pure) BULRIC as the appropriate choice for tariff regulation.

## Section 3

### Regulatory obligations

#### 3.1 *Legal basis for the obligations to be imposed, maintained, amended or withdrawn*

Dutch Telecommunications Act.

For all operators, except when mentioned otherwise, the following obligations apply:

Amended:

- tariff regulation (based on efficient costs and pure BULRIC method) according to the Commission recommendation of May 7<sup>th</sup> 2009).\*
- access obligation, local interconnection; no longer deemed proportionate as this obligation was already withdrawn in the review of market 2.

Maintained

- transparency obligation (including reference offer only for KPN for fixed termination)

\* The final price cap, that is applicable from 1 September 2013 onward, is identical to the pure BULRIC cost price of 0.108 cent per minute for FTR and 1.019 cent per minute for MTR.

#### 3.2 *Reasons for the imposition, maintenance or amendment of the obligations*

Competition problems: excessive tariffs, margin squeeze, several problems related to hindering access.

#### 3.3 *Exceptional measures*

N.a.

Section 4

**Compliance with International obligations**

4.1 *Imposition, amendment or withdrawal of obligations provided for in Article 8(5) of Directive 2002/19/EC (Access Directive)*

Yes.

4.2 *Name(s) of the undertaking(s) concerned*

All operators (see point 2.1).

4.3 *International commitments entered by the Community and its Member States that need to be respected.*

N.a.