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| Date | Subject | | Annex(es) |
| | Management Summary Position Paper ALL IP | | |

Management Summary Position Paper ALL IP

Introduction

This Position paper All-IP (hereinafter: PP) is the result of the consultation on the Issue paper All-IP previously conducted by the OPTA Commission (hereinafter: the Commission). The PP reflects the Commission's provisional point of view with respect to All-IP. Responses to this PP will be included in the follow-up steps of the Commission.

Summary of the OPTA Commission's provisional point of view

The starting point of the Commission is that KPN, in view of the positive effects of All-IP for the market, can further modernise its network, but that possible negative market effects of All-IP on the competition must be avoided as much as possible.

These (potential) negative effects of All-IP mainly relate to the phasing out of all local exchanges, including the underlying access network. After all, it is these local exchanges and the access network that are currently used by a large number of DSL providers for the provision of their (broadband) services. In addition to cable providers, these providers are vitally important for achieving a sufficient level of competition on the various retail markets.

It remains of paramount importance for the Commission that infrastructure competition must primarily bring about sustainable competition so that less and less regulation is required. Only where infrastructure competition is absolutely impossible, will stimulation of service competition and thus the associated regulation be considered.

The primary aim of the PP is to provide 'regulatory guidance' to the market in order to enable parties to already make their strategic choices and business cases. Although Commission's point of view is still provisional, the regulatory guidance can be used for the risk and opportunity analyses of market parties.

Secondly, the PP also proposes a number of conditions that should apply for the phasing out of the local exchanges. These conditions impose demands on the circumstances under which KPN can

proceed with the phase-out and market parties can migrate to alternative solutions. These conditions aim to create certainty for market parties and can also play an important role in the same strategic business analysis.

The regulatory guidance mainly relates to the provisional point of view of the Commission with respect to further (stimulation and conditioning of) infrastructure competition and the fully fledged alternative for the gradual disappearance of the local exchanges and the related access obligation (MDF access). The fully fledged alternative, which the Commission currently has in mind, does not entail a structural regulation of access to services.

The fully fledged alternative means, very briefly, that market parties can continue the roll-out of their own network to the street cabinet. Due to the deemed limited interest for KPN to facilitate this alternative on a voluntary basis and in view of the considerable (potential) market problems that arise if KPN does not provide the alternative, it now appears essential to impose obligations with the same effect by means of a new market analysis.

The Commission creates the conditions and possibilities for a market in which infrastructure competition can arise. It is ultimately up to the market and the market parties to make their business decisions partly on the basis of this.

The fully fledged alternative

The fully fledged alternative consists of the building blocks that must ensure that the gradual disappearance of ULL is replaced by an alternative based on infrastructure. The Commission sees the further investment in the infrastructure by means of the roll-out to the street cabinet as an alternative. During the roll-out to the street cabinet, the Commission regards the greatest potential obstacle to be the ability to connect (a large number of) street cabinets to the existing rolled-out network of DSL providers. This part of the network is referred to by KPN as 'Metro Access Network'.

The aim of the Commission in this respect is, where possible, also the creation of infrastructure competition in the Metro Access part of the network. This is also the reason why part of the fully fledged alternative can also consist of various possible means of access to the KPN Metro Access network. These range from leasing capacity (SDF Backhaul) to joint infrastructure installation in the ducts during the installation by KPN.

As a result of the stagnation of the further geographical DSL roll-out, the Commission also sees the necessity for a temporary obligation for service access as part of the fully fledged alternative. This only applies to areas where no DSL roll-out has taken place yet. This concerns a temporary obligation to supply until KPN has made available the network access to the (new) Metro Access network.

The appropriateness and the precise interpretation of these obligations will be determined in more detail on the basis of a new market analysis. A factor that also plays a role is the extent to which, as a result of the PP, the market realises solutions for possible competition problems independently and pro-actively.

Besides access to the Metro Access network, the phase-out conditions, including the conditions for migrating a local exchange to the street cabinet, also form part of the fully fledged alternative.

Phase-out conditions

The phase-out conditions are related to the current market decisions and the obligations included in

these decisions. This means that no new market analysis or market decision is needed for this purpose.

The Commission has formulated phase-out conditions in the PP and will submit these conditions to the market for consultation. This will lead to policy guidelines that are employed by the Commission as criteria during the evaluation of the fairness of KPN's proposed phase-out.

Before KPN can start with phase-out, it must first make public a complete reference supply of the SLU, which also includes the migration possibilities (from local exchange to street cabinet).

In order to migrate existing providers to an alternative, it is important that they have sufficient time for this. For the time being, the Commission has set this time at 1½ to 2 years. KPN must also report the phase-out of a local exchange 2 to 2½ years in advance. The Commission will start a separate investigation to determine the exact period of time.

For local exchanges to which parties have already rolled out, the Commission is of the opinion that they must be able to sufficiently depreciate the one-off investments they have made in the relevant (co-location) facilities and thus they must be able to use these local exchanges during this period. The Commission has set a period of five years for this. This is also the period that KPN employs for such facilities and is also usual in the market.

Follow-up steps

Parties are invited to provide their response to this PP in general and the phase-out conditions in particular. A period of four weeks applies for this. The responses with respect to the phase-out conditions will be taken into account in the determination of the Policy Guidelines. The Commission will start with new market analyses as soon as possible for the markets unbundled access to the access network, wholesale broadband access and the market to which SDF-backhaul belongs.