

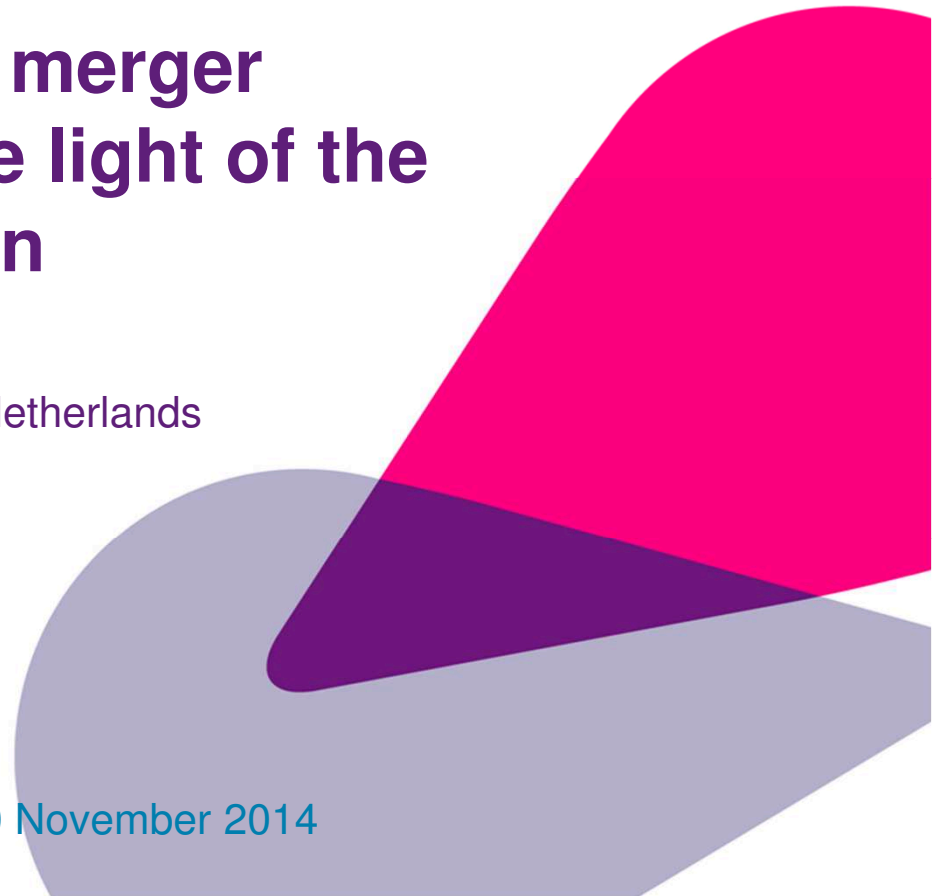
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Market analysis and merger interdependencies in the light of the new recommendation

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2014 in NL: two merger cases and a new market analysis (3a)

- 1st merger case: LGI – Ziggo (EC)
- 2nd merger case: KPN – Reggefiber (ACM)
- Market analysis market 3a (ACM)
- October: EC approves LGI-Ziggo subject to conditions (Pay TV, OTT)
- October: ACM approves KPN-Reggefiber without conditions
- October: ACM consultation market analysis 3a starts, taking into account these merger cases

Three retail markets

- Revised Recommendation: start with analysis of problems on retail markets.
- ACM considers following retail markets:
 1. broadband internet access (including bundles)
 2. business connectivity services
 3. fixed telephony (PSTN, Dual and Multiple connections and calls).
- Conclusion retail markets (absent regulation):
 - risk of single SMP of KPN on business connectivity services and fixed telephony
 - risk of joint SMP of KPN and UPC/Ziggo on broadband internet access.

Wholesale market analysis

- Competition problems on retail level justify analysis of new market 3a.
- New market 3a corresponds with old market 4. Main change is inclusion of virtual unbundled local access (VULA) in market 3a.
- Relevant market for LLU defined by ACM:
 - unbundled copper access (MDF/SDF) and Fiber-to-the-Home (ODF FttH)
 - VULA on the copper and FttH network part of the relevant market.

VULA on cable networks?

- Is VULA on cable networks possible, based on three VULA-criteria of Commission?
- Several forms of access are possible on cable networks.
 - However, these forms are not a substitute for LLU because:
 - less possibilities to deliver guaranteed capacities (business services)
 - less possibilities to differentiate for alternative operators compared to LLU.
- Hence, ACM concludes that cable access is not part of the LLU market - new market 3a.

Obligations

- ACM concludes that KPN has SMP on the market for wholesale local access.
- ACM continues access regulation (MDF and ODF FttH)
 - Research by NERA shows there is a business case for FttH-unbundling in the Netherlands.
 - Proven in practice as currently Vodafone is unbundling.
- For the first time ACM imposes VULA. SDF-obligation lifted.
- Main goals: consumer choice and stimulation of investments in network upgrades and fiber.
- Third parties, like Tele2, Vodafone and Euronet (Online), can compete with KPN and UPC/Ziggo as a result of access regulation, leading to more innovation and lower prices for consumers and businesses.