Authority for Consumers & Markets



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

Johan Keetelaar, Director ACM, The Netherlands

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 analyis 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 VULAcriteria 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.

