

# ACM: regulation resolves possible market domination in Dutch telecommunications sector

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The scenery of the Dutch telecommunications sector has changed drastically in the last two months. A couple of recent merger clearances have left the sector with two major players operating a nation-wide network. But there is no need to worry as, according to supervisor ACM, the current and upcoming sector-specific regulation applying to one of these players will keep both players in check. The ACM's draft 'Market analysis decision for unbundled access to the local loop' will guarantee competitors continued access to KPN's network. Cable companies do not have to provide access. Telecommunications companies have until 12 December 2014 to respond to the draft decision.

In October 2014, the [European Commission](#) cleared the acquisition of Dutch cable operator Ziggo by telecommunications group Liberty Global, subject to a number of conditions regarding pay TV and internet streaming. The Commission found that even though the acquisition combined the first and the second largest cable TV networks in the Netherlands, both companies operate in separate regions and therefore do not compete for the same customers. But the transaction could reduce the existing competition for the wholesale supply of premium pay TV film channels by combining the only two linear film channels in the Netherlands, Film1 and HBO. To resolve this concern, Liberty Global committed to selling Film1, its premium Pay TV film channel. In addition, Liberty Global committed to removing clauses in channel carriage agreements that limit broadcasters' ability to offer their channels and content over the Internet.

In November 2014, the [ACM](#) unconditionally cleared telecom company KPN's acquisition of optical-fiber company Reggefiber. The ACM's three-yearly market analysis on which the current draft "Market analysis decision for unbundled access to the local loop" was based, progressed at the same pace as the investigation into KPN's acquisition of Reggefiber. According to the ACM, the access obligation in the current and upcoming sector-specific regulation prevents KPN from denying competitors access to its network. And the price ceilings in the same sector-specific regulation stop KPN from using its near to 100% market share in respect of unbundled access to optical-fiber and copper-line networks to raise its prices.

The ACM therefore considers the sector-specific obligations sufficient to prevent KPN and cable company UPC/Ziggo from "[dominating](#) the market". Despite their equally strong position on the consumer internet market, the ACM intends to only impose sector-specific obligations on KPN because, according to the ACM, it is impossible to offer [similar access](#) to UPC/Ziggo's cable network and to KPN's copper and optical-fiber networks. Access

to KPN's network should be sufficient to facilitate competition in the consumer markets, says the ACM. The [Dutch cabinet](#) is less convinced. It considers a market structure with two networks and two players an insufficient safeguard for effective competition and prefers to impose similar access obligations on cable companies. However, in order to do so, it first has to convince the European Commission to include this possibility in the current European framework.

Until then, telecom companies will have to make do with submitting comments on the draft 'Market analysis decision for unbundled access to the local loop'. The deadline for comments is 12 December 2014.