

Submission by KPN Group Belgium NV

In response to the consultation on draft decisions BIPT, VRM, CSA and Medienrat

BROADCAST AND BROADBAND MARKET ANALYSIS

18 February 2011

KPN Group Belgium welcomes and supports the draft decisions for broadband and for broadcasting.

These broadcast and broadband decisions are both equally urgent and absolutely necessary to change the status quo in the Belgian telecom landscape.

KPN Group Belgium is pleased to see that the new BIPT council is ready to take decisions that might have a structural impact on the Belgian market.

KPN Group Belgium realizes that the task the various Belgian media and telecom regulators have set out for themselves is not an easy one. It will be important that sufficient resources can be allocated to the elaboration, efficient and timely implementation and enforcement of these decisions. Knowing that certainly BIPT is understaffed for market analysis purposes, this is a problem that needs to be addressed. Working groups need to tackle the implementation of these decisions as of today, i.e. prior to the final adoption of these decisions. If these decisions are not implemented urgently, by the time the final decisions are adopted and implemented, the market risks to be fully saturated, and BIPT and the media regulators should consider how they could pro-actively tackle such additional hurdle.

The competitive landscape in Belgium for fixed telephony and broadband has been extremely poor for many years and has not improved to date, to the contrary. The market share of alternative operators is so low that it is fair to say that liberalization of fixed and broadband markets has resulted in no less than a failure.

This may be the result of less efficient regulation by the previous BIPT council, but it has also certainly been the result of the Belgian incumbent operator, Belgacom who has successfully impeded competition for fixed and broadband. In this respect, reference can be made to the complaints lodged by KPN and Mobistar against Belgacom with DG Comp and the Belgian competition authorities for abuse of its dominant position on the broadband market, which ultimately gave rise to the dawn raid performed by the Belgian competition authorities in October 2010. Similarly, in the field of fixed telephony, Belgacom succeeded in killing competition through margin squeeze with its Happy Time offer. The complaints lodged by KPN Group Belgium in relation to the Happy Time abuse are still pending before the Belgian competition authorities and the Brussels court.

Because of the lack of effective competition by alternative operators, retail prices for broadband offered by Belgacom or the cable operators have remained high, while they offered increased speeds to their retail customers, which were not made available to alternative operators. Retail prices for television and in the fixed market in general have increased over the years. In addition, Belgacom and cable operators implemented a strategy built around the offering of triple play offers (fixed telephony, broadband and TV). This allowed them to effectively lock-in the customer, as churn

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becomes extremely low once a customer subscribes to such as package. Bundles facilitate cross-subsidization and anti-competitive margin squeezes.

In summary, the state of competition in Belgium in the field of broadband or triple play bundles is dramatic. Alternative operators face a saturating market of consumers who are locked in either with the incumbent or with cable operators through a bundle, which alternative operators are unable to replicate. Moreover, the alternative operators' market share is insignificant and does not allow for any economies of scale or the major investments required.

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A dramatic competitive situation requires drastic regulatory intervention.

The regulatory back log is such that the status quo can only be reversed by urgent and far reaching regulatory measures. Alternative operators will not be able to gain market share unless they will in the very short term be granted access to a wholesale offer which allows them to replicate the triple play bundles including TV offered on the retail market. This wholesale offer should allow them to offer a service which is really competitive, in terms of services offered, speeds, prices, activation process etc. In fact, in order to overcome the lock-in effect, the offer by the alternative operator would even need to be better. This indeed means that alternative operators are not able to compete if they are unable to offer IPTV or cable TV to their customers.

The draft decisions are proportionate to the extent that they aim to address a serious lack of competition.

Today no competition is possible for cable television as, unlike the mobile networks which have voluntarily opened up their networks to MVNO's, cable television networks have not given access to third parties. So, the imposition of access obligations for cable TV is clearly required. It is important that both IPTV through multicast and cable TV be made available, so that eventually competition can be created between various wholesale offers for TV. This will lead to more choice, differentiation and innovation. There will certainly be an added value in having access to analogue TV through a reseller offer next to the access to IPTV through multicasting. Analogue TV has its known advantages. In addition, in a saturating market, where it is quite difficult for a new player to build up economies of scale, the access to cable TV may make it easier to reach a positive business case. The access to cable TV may indeed require less high investments as it does not require high investments in an own TV-platform.

The draft decisions meet a real demand from alternative operators for access to IPTV and cable TV.

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Annexes

- A. Bundles in Belgium
- B. EU trend towards bundling and lock-in effect / impact on churn
- C. CONFIDENTIAL
- D. Detailed replies to consultation BIPT markets 4 and 5
- E. CONFIDENTIAL