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Case M.7978 – Liberty Global/Vodafone/
Dutch JV

Our ref.

MKARSKEN/78956

Date: Friday 1 July 2016

Subject

Case M.7978 – Liberty Global/Vodafone/Dutch JV, consumer concerns for competition

Europese Commissie DG Mededinging

Mrs. M. Vestager

Rue Joseph II / Jozef II straat 70
1049 BRUSSELS

Dear Mrs. Vestager,

Consumentenbond is very concerned with the competitive effects on consumers' choice of the proposed joint venture between Liberty Global and Vodafone in The Netherlands. In this letter I will briefly describe our concerns for competition of this JV.

Consumentenbond, the Dutch consumers union, was established in 1953, and today serves and represents almost half a million members. Consumentenbond is a consumer organisation and as such is recognised as an interested party in article 93 of the Dutch Competition law (Mededingingswet).

Background

In the last decade a series of mergers in The Netherlands telecom sector have established a de facto duopoly in the fixed telecom market with Ziggo (Liberty Global) and KPN. Consumentenbond believes that such a duopoly is not the basis for a healthy and competitive market. Vodafone has been challenging this duopoly by offering services over copper and fiber (on the KPN network). Vodafone has been competing intensively for its place in that market by asking for third-party access to the Ziggo cable network, which is neither regulated nor open. Vodafone CEO Rob Shuter said in 2014: "9 out of 10 households is a customer of KPN or Cable, there is hardly any choice for the consumer. An alternative is truly needed."¹ Consumentenbond completely agrees with this analysis. We also believed that Vodafone's attempt to become a third party on the Dutch fixed market was a very positive development.

Short-term effects on competition

Recently telecommunication companies have started to enter the 4P market (quad play) that has an attractive low churn rate of the customer base. With the announcement of a joint venture between Liberty Global and Vodafone in The Netherlands a new, large and strong 4P player will enter the Dutch market.

¹ De Telegraaf, 3 October 2014

Consumentenbond believes that a joint venture between Liberty Global and Vodafone in The Netherlands will result into a duopoly 4P market with Liberty Global/Vodafone on one side and KPN on the other. If this joint venture will proceed as planned we believe it will be very much an end game for the Dutch consumer market. It will be very difficult in the coming years for any third party to challenge this new duopoly, because no third party will have access to the Liberty Global cable network. The joint venture will foreclose any rivals from making quad play offers on equal competitive terms.

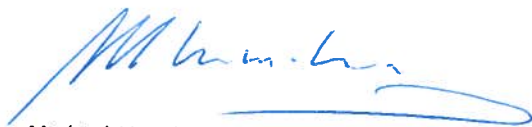
Long-term effects on competition

Consumentenbond believes that Dutch consumers will be locked into this duopoly as both parties will adjust their services and prices to each other. Consumers will be confronted with little meaningful choice as the prices of both the duopoly parties will converge upward with no pressure from competitors nor the possibility of new entrants to the market.

Any third party is confronted with the fact (as Vodafone has been previously) that Liberty Global's cable network is not accessible and KPN's fiber network still only serves a part of Dutch households. That makes KPN's copper network the only option for competitors. But given the relatively low data speeds of this network, it is not a competitive choice for consumers as they require and demand increasingly faster internet for their online activities.²

Consumentenbond requests the Commission to examine our concerns and to take a very critical look at the joint venture's short-term and long-term effects on competition on the Dutch telecom market(s). Consumentenbond believes that an important remedy can be to secure third party access to the Liberty Global cable network. This will create a level playing field for both parties in the duopoly, and it will preserve competition by allowing third parties to offer competing 4P services across all relevant networks in The Netherlands.

Yours sincerely,
Consumentenbond



Michiel Karskens
Manager Public Affairs

² Stratix, "Snel internet, valt er wat te kiezen?" October 2015, research commissioned by Consumentenbond. *Send in attachment to this letter.*