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IP Interconnection in the Netherlands

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Research done by ACM

- Request from Ministry of Econ. Affairs:
 - Any “restrictive IP Interconnection behaviour” in NL?
 - If so, are existing instruments of regulator sufficient?



- Method:
 - Formulate possible theories of harm
 - Interviews - CAPs, ISPs, IXPs, transit providers and experts
 - Assess likelihood of competition problems
- Report published last year (in English):
<https://www.acm.nl/nl/publicaties/publicatie/14769/Onderzoek-IP-interconnectie-in-Nederland/>

Theory of harm 1

- **Exploitation of a competitive bottleneck**
- Idea: to reach ISP's customers, CAPs' traffic must go through ISP's network, so ISP may be able to levy a "termination fee"
- Relevant questions for assessment:
 - Are customers single- or multi-homing?
 - Do customers switch networks if quality of (some) content is low?
 - Is transit a substitute for peering?
 - Do CAPs have countervailing bargaining power?

Theory of harm 2

- **ISPs may use the competitive bottleneck to foreclose the market for content (vertical integration to content)**



- Idea: ISP favors own content by hindering IP Interconnection with other CAPs
- Relevant questions for assessment:
 - Does the ISP have market power in the market for Internet access services?
 - Degree of competition in the content market and the ISP's position on the market for content
 - Is there really an incentive to favor own content?

Possible efficiencies/justifications

- Legitimate aim to protect transit business
- Allowing for settlement fees can generate more mutually beneficial peering deals
- Settlement fees can simply reflect bargaining strength
- Refusal to peer may be caused by excess capacity on other peering links

Evidence on NL situation from interviews

- No degradation of QoS due to insufficient interconnection capacity in NL
- Paid peering rare
- Sufficient transit capacity
- Sometimes CAPs revert to transit because they don't want to set a precedent
- Combination of small country and large IXP
- AMS-IX not-for-profit

General assessment of the theories of harm

- Internet retail market is quite competitive
- 14% churn on average per year, quality seems to matter for consumers
- Mobile not yet a substitute for fixed, but this may change in the future
- Transit usually is a substitute for peering
- Incentives to foreclose competing CAPs can only be assessed on a case-by-case basis

Recent activities of ACM

- Two disputes over settlement fees for peering brought to our attention
- No intervention, parties resolved dispute themselves
- In both cases parties eventually peered, in one case without settlement fee

Conclusions

- IP Interconnection is about two parties that complement each other finding the most efficient way to interconnect, and divide the gains from their transaction
- Limited risk of competition problems in IP Interconnection in NL
- Competition law should suffice, case-by-case approach