



Public consultation

on

**BEREC draft Report on Common Characteristics of Layer 2
Wholesale Access Products in the European Union**

BoR (15) 64

KPN
PO Box 30 000
2500 GA The Hague
The Netherlands
Contact person: Paul Knol (paul.knol@kpn.com)

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I. Introduction

KPN has taken note of the Draft BEREC Report on *Common Characteristics of Layer 2 Wholesale Access Products in the European Union*. The document intends to present an overview of the current regulated layer 2 wholesale access products in ten specific countries and aims to identify common characteristics. The analysis is descriptive and does not aim at being normative or recommend a best practice.

II. Common characteristics should not be used as a checklist

KPN agrees with BEREC that the analysis should not aim at being normative or recommend a best practice. However BEREC also states that this document should contribute to the harmonization of regulatory instruments. The danger may arise that the defined common characteristics of L2 WAP will be used by the NRA's as a kind of checklist whereto L2 WAP product will have to comply. The regulated wholesale products BEREC has investigated are all based on the nature of the market problems investigated by the NRA's. Since the competitive situation differs significantly in the various member states, the remedies should also differ to avoid unnecessary overregulation.

III. Market definitions

BEREC refers to 'Market 4' and 'Market 5' when it refers to regulated broadband markets, thereby referring to the Recommendation on relevant markets 2007. In footnote 1 it is clarified that BEREC considers 'Markets 3a' and 'Market 3b' of the Recommendation on relevant markets 2014 to be 'correspondent' markets. The descriptions have however not been changed without cause. The current more technology neutral wording leaves the level of local access much more open and requires a much more precise analyses to define the right level of local access than the previous text that still more or less implied local (sub) loop unbundling. When remedies for access in market 3a have to be imposed, it is up to the NRA to define the proportionate level of access.

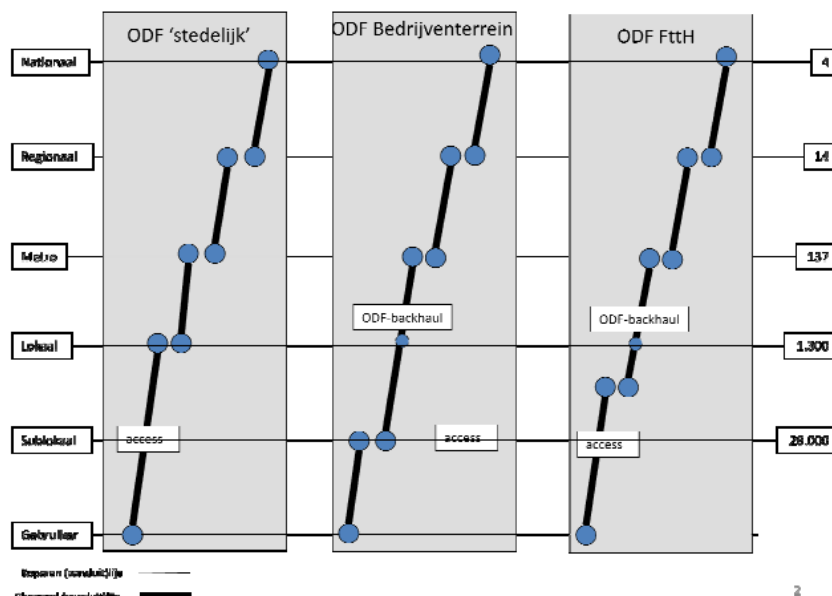
IV. The need for layer 2 wholesale products

The main reason for imposing layer 2 access obligations seems to be to mimic as much as possible the historical copper based remedy of physical unbundling in terms of flexibility and product differentiation. What is missing however, is an analysis of the actual need for most of the technical features of layer 2 products in the downstream retail markets. The trend in these retail markets is that an increasing number of services is delivered over IP based layer 3 networks or Over The Top on the existing broadband internet connection. The increased speeds of current broadband internet connections lower the demand for uncontended services. After all, what is the point in having a guaranteed bandwidth of 1 Mbit/s when your broadband internet connection can handle peak rates in excess of 100 Mbit/s. Even in business markets, a trend is visible that services are being delivered on the basis of wholesale consumer-quality bitstream services.

V. Some other remarks on the analysis

KPN would like to make some more detailed remarks on the analysis:

- Page 3, bottom. Common characteristics of L2 WAP with local POH: In this survey it is stated that uncontended bandwidth or a bandwidth with a defined QoS is not supplied over a regional L2 WAP. Also, multiple VLAN's are supposedly not delivered over a regional L2 WAP. For The Netherlands, this is not correct. KPN supplies unregulated wholesale services¹ with defined QoS and multiple VLAN's on National PoH.
- Page 10, middle. Uncontended bandwidth and QoS. "...the drawback is that bandwidth is provided that in practice probably never will be used to its full extent, i.e. this approach might not be efficient....". KPN recognises this drawback and this is the reason that there are no VLAN's with uncontended bandwidth implemented at KPN 's local PoH (200 largest CO's) or national PoH. Different levels of QoS at the PoH are implemented with traffic prioritization.
- Page 11, top. It is stated that in the Netherlands, the L2 WAP will be available at the 'same location' as physical unbundling. The L2 WAP (VULA) offer will however be available at the MC (metro core) level, which is a logically different level that geographically may or may not coincide with the geographical location for physical unbundling (MDF) at the local level.



Figuur 90: Schematische weergave netvlakken bij ODF-access

- Page 12, top. The suggestion is made that L2 WAP in the Netherlands is not available (quote: ...will be available (DE, NL). This is not true. L2 WAP is available in the Netherlands both on local level and national level. On local level, high quality bitstream (contention ratio 1:20 or better) is available as a regulated service intended for business customers.
- Page 13, section 4.5. The suggestion is that symmetric bandwidth profiles are not available in the Netherlands. This is not true. Symmetric bandwidth profiles are available in the Netherlands for quite some time.

¹ KPN only has an obligation to deliver wholesale services on a local PoH, which is in the KPN network a network level between local exchanges and regional exchanges.

- Page 38, table 16. L2 WAP not yet implemented. This is not true. L2 WAP is implemented and used by ANO's. Not as a result of an obligation in market 3a but as an obligation in the combined former markets 5 and 6.