

Europe

1. Liberty Global/Ziggo will create Dutch national company, says DG Comp

The European Commission has confirmed its intention to review the *Liberty Global/Ziggo* tie-up, a merger that will combine the Netherlands' two-largest cable operators.



Ziggo is the Netherlands' largest cable company (Credit: Shirley de Jong)

In January the US media group announced plans to buy the 71.5 per cent of Dutch cable provider Ziggo that it does not already own. Ziggo is the country's largest cable operator.

Liberty, meanwhile, provides television, broadband internet, and telephony services in the country. It also owns UPC, Ziggo's largest rival in Netherlands' cable industry.

DG Comp says in a statement: "The proposed transaction will create a near national cable company in the Netherlands, able to invest, operate and advertise in enhanced competition with national players."

According to Liberty, the US\$9.4 billion deal will give it access to 7 million Dutch telecoms customers – more than 90 per cent of the market – and will allow it to offer bundles of TV, telecoms and broadband services.

Allen & Overy is counsel to Liberty, while Ziggo is represented by Freshfields Bruckhaus Deringer.

While DG Comp is now due to begin its analysis of the merger, the Netherlands Authority for Consumers & Markets (ACM) may ask the EU to refer the matter back to the national level as it affects the Dutch market.

The deal is Liberty Global's latest venture into the European telecoms market; it paid US\$23 billion to acquire UK broadband company Virgin Media in February. In August it received a setback when a German court overturned antitrust approval for its acquisition of cable operator Kabel Baden-Wuerttemberg, ruling that conditions designed to facilitate market entry were insufficient.

The merger is another sign of widespread consolidation in Europe's crowded telecoms markets. On Monday, UK's Vodafone announced plans to buy Spanish cable company Ono in a deal that will also require antitrust approval from DG Comp.

While European competition commissioner Joaquín Almunia has long called for a stronger, more integrated regional telecoms market, he has also discouraged the creation of "national champions" through consolidation at a national level.

Weijer VerLoren van Themaat says that in the probability that DG Comp declines the Dutch authority's referral request, it is likely to approve the *Liberty Global/Ziggo* transaction. A report by the ACM in 2006 found that competition in the pay-TV market is exerted from online and digital platforms, he says, since when the use of these platforms has "significantly increased".

Bas Braeken, at Maverick Advocaten in Amsterdam says in view of the fact that Ziggo and UPC are mainly operating in separate areas in the Netherlands, there is "virtually no geographic overlap" between the activities of the parties.

"Therefore, the transaction will not lead to a loss of alternatives for Dutch households. For this reason, the transaction does not appear to cause concerns with respect to the market for the retail supply of audio visual content to end-users," he says.

DG Comp has until 23 April to complete its Phase I review of the deal.

Counsel to Liberty Global

Allen & Overy

Partner [Paul Glazener](#) in Amsterdam, assisted by Emma Besselink

Counsel to Ziggo

Freshfields Bruckhaus Deringer

Partner [Winfred Knibbeler](#), assisted by Elske Raedts and Nima Lorjé