



Written response of KPN B.V.  
to the ERG public consultation

on a draft

**Common position on symmetry of mobile/fixed call termination  
rates**

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## Introduction

The ERG public consultation on mobile and fixed call termination rates is an important step to reach a harmonised approach towards regulating these rates. As the draft common position indicates, there are many differences between member states on this regulation. The common position focuses on symmetry or asymmetry of termination rates. Other topics, such as the level of termination rates, are not part of this discussion.

KPN welcomes a more harmonised approach on these matters. In general, KPN wants to make three points prior to responding to the questions raised by ERG.

Firstly, KPN has the opinion that the preferred option of the Commission, symmetry of termination rates, is economically sound under the assumption that the market is truly competitive. In the EU, it can easily be seen that this is not the case for many member states.

Secondly, the fact that there are many differences between regulatory outcomes by member states is not problematic. Problems arise when these differences are the consequence of different regulatory principles and cannot be explained by objective conditions. KPN feels that the issue of contentiousness of markets must be at the basis of regulatory concerns.

The analysis of contentiousness traditionally starts with the measurement of the level of concentration of markets by the calculation of the Herfindahl-Hirschman-index for a market. Further analysis of contentiousness can include aspects such as equality of access to spectrum, penetration levels and trends in elasticity and transparency. An analysis of contentiousness can be the starting point of regulatory decisions to intervene in markets based on the NRF. Decisions about symmetry or asymmetry must thus be based on this starting point.

KPN thinks that the ERG common position is too quick to jump to the discussion of symmetry as a possible solution to resolving regulatory differences. ERG does not spend much thought on the differences in and between markets. When ERG-members would start the common position using an analysis of the contentiousness of markets as a point of departure, the issue of (a)symmetry may become more complex. The great advantage would be that it would also reflect more accurately the differences between member states in the development of competition. It, moreover, enhances transparency of regulation, one of the key concerns for investors in EU markets.

In KPN's view, when regulators would follow this line of reasoning, they would then come to the conclusion that, for example, mobile call markets in the Netherlands, Austria, Italy and the UK are more competitive. Mobile call markets in Eastern Europe, but also in Greece, Belgium, and Germany are much less competitive.

In the former countries, ERG members should opt for a clear path towards symmetry. In the latter ones, however, for the time being asymmetry would be more appropriate. Using the level of competition in markets as a starting point could also provide a basis underlying a more objective approach to the issue of the number of years that asymmetry would be appropriate.

Thirdly, KPN would like to stress that the present discussion on termination rates is about call termination in existing networks. Especially in fixed call termination, the discussion hinges on the fact that in most member states calls are conveyed predominantly on fixed copper networks. In the future, this will change. Next generation networks are under construction and traditional voice telephony services already today are rapidly replaced by voice over internet based services (hereafter: VOIP), firstly by new entrants and cable operators. The ERG consultation, however, does not elaborate on this issue. As this concerns investments, as the investment itself is of a considerable magnitude and the economics of these networks may differ from the existing ones, KPN maintains that the ERG cannot eliminate this from the present discussion.

Hereafter KPN will address the questions of ERG.

## General questions

Questions 1 and 2 have been addressed by the introduction.

As to Question 3, KPN has the opinion that symmetry of termination rates between fixed and mobile networks will be very difficult to arrive at. The key difference is that termination rates for mobile networks usually reflect the cost of the radio link, whereas the termination rate for fixed network reflects (part of) the core network rather than the cost of the access line.

The economics of fixed networks may change considerably as technology migrates to All IP networks and this will change the charge for termination on these networks as well.

The costs connected to operation of the radio link in mobile networks will remain very sensitive to traffic and geographical conditions. The cost drivers for MTR in this sense are very different from those for FTR.

## Fixed part

### *[Q F1 – Termination in a converging fixed-mobile market]*

Fixed telephony faces increasing competition of mobile telephony. However, fixed and mobile services are not identical and have different underlying technologies, with different costs and cost models.

Moreover, converged fixed-mobile services are emerging nowadays under an asymmetric regime. In other words, symmetry between fixed and mobile is not necessary in order to make converged fixed-mobile services possible.

In member states with a higher level of competition and with rapid roll out of NGN's market dynamics are negatively affected by the asymmetry between fixed termination rates. The ongoing transition to ALL-IP networks demands new, more efficient interconnection products such as IP interconnection, also for voice services. As these networks become multi-service networks and the return on investment of networks will be less and less determined by voice telephony only, asymmetry for voice services should become less and less necessary.

Moreover, alternative operators that now profit from asymmetry have a strong incentive not to change anything in their traditional interconnection products. In the Netherlands, the asymmetric termination rates are combined with a non-discrimination obligation. Not only does this non-discrimination obligation severely limit the room for negotiations about new interconnection products between operators, it also imposes burdensome regulation costs that are not necessary. In the Netherlands and similar market circumstances, we therefore strongly suggest that asymmetry between fixed termination rates will be abolished as soon as possible.

### *[Q F2 – asymmetry index calculation]*

An index can be helpful to compare between markets. However, tariffs should always be based on facts. Assumptions must be used only in cases in which factual information about relevant networks is not (made) available. Also, averaging must be used only in cases that specific information is not available. Thirdly, asymmetry must be based on the actual use of the network, which may even result in an alternative index as proposed.

### *[Q F3 – Reasons justifying asymmetric tariffs paragraph 6.1]*

No. The only situation where asymmetric tariffs might be justified is where incumbent operators have lower costs due to early market entrance and the opportunity to build networks under a legal monopoly. Over time and due to asymmetric regulation (allowing new entrants to challenge former monopolies) this situation will change. Certainly, with the current transition to NGNs, this advantage is disappearing in most markets and the advantage has gone in the relevant Dutch market.

*[Q F4 – effectiveness of entry assistance policy]*

Asymmetric FTRs will discourage the development of new interconnection products needed for efficient use of NGNs, because alternative operators will stick to their high termination rates. At the same time, the transition from traditional voice services to VoIP services needs new investments for all providers. In the Netherlands, cable operators combined have more VoIP customers than KPN. They don't need any entry assistance. In short, the current asymmetry discourages efficient termination and entry assistance by asymmetric termination rates is not needed in the NGN future.

*[Q F5 – Efficient operator]*

The definition of an efficient fixed network operator is dependent on:

- Network geographical coverage. An efficient operator covering only dense zones should have a smaller traffic cost than an efficient operator covering the whole country;
- (average) Market share;
- Use of technology;
- Definition of services, such as termination services.

The definition of termination services and the accompanying rates must be based on forward looking principles which, in time, must mean that symmetric termination rates can be attained. The definition of termination rates based on other considerations may lead to large asymmetries which can distort investment decisions.

*[Q F6 – efficiency alternative operators]*

As we stated above, asymmetric FTRs can distort markets in different ways. If the FTRs of alternative operators are set against a less efficient operator than the FTRs of the incumbent operator, asymmetry will not end. Therefore all operators should be equally efficient.

*[Q F7 – less reasons for fixed asymmetry compared to mobile]*

The fixed markets are ahead of mobile markets regarding the transition to ALL-IP NGNs. Therefore there might indeed be less reasons for fixed asymmetry compared to mobile.

*[Q F8 – competition distortion and incurred costs]*

If FTRs are strictly based on incurred costs inefficient operators can have higher FTRs. Then there is not only no incentive to be efficient, but it also means that asymmetric FTRs will remain.

*[Q F9 – Transaction and regulatory costs]*

Transaction and regulatory costs will of course be much lower.

*[Q F10 – symmetry in a reasonable period of time]*

The development of new interconnection products should take place now that NGNs are being rolled out. Those new products risk to be driven by current asymmetric FTR income of incumbent operators. Regulators should therefore be very clear about the end of asymmetry the sooner the better.

*[Q F11 – transition period to move to symmetric FTRs]*

As was mentioned earlier, KPN favours an approach by which the transition period can be based on objective parameters derived from the level of competition in the market. This would mean that for some markets asymmetry must be abolished immediately. For others, the analysis should point at objective conditions which can underlie decisions to come to a glide path towards symmetry.

*[Q F12 – Criterion for the glide path]*

See above.

*[Q F13 – Time period for symmetry the same for all NRAs]*

The time period to reach symmetry should be dependent on the actual market situation. This varies between member states. Therefore each NRA should determine a glide path. However, it helps when at EU level an objective way to arrive at deadlines for reaching symmetry is set.

**Mobile part**

*[Q M1 – General principle of symmetry]*

KPN supports the general conclusion in relation to mobile termination rates, that in fully competitive national mobile markets termination rates of mobile operators (including and mobile virtual operators) should be symmetric. For example in The Netherlands such a fully competitive market is present, with competition between three very strong network operators and an increasing number of MVNOs and service providers offering a range of competitive services to the market. In such a market any asymmetry as result of regulation would distort competition.

*[Q M2–M3 – Exceptions for exogenous costs]*

Justification of asymmetry because of exogenous cost differences may (initially) support tariff differences. However it should be critically evaluated if such differences are really present. The only example of exogenous cost differences presented in the consultation document is the cost of spectrum licenses. The consultation document states:

*‘When the spectrum licensing process is not set up in a way that all active market players acquired their licenses at market price .... operators may face cost differences outside their control.’*

As such KPN agrees with this view. However, it has to be concluded that ‘market prices’ for frequencies may vary over time and that – certainly in the promoted ‘forward looking’ cost models – market prices of frequencies have to be modelled consistently with other factors in cost models. It would e.g. be inconsistent to use historic costs of licenses in combination with forward looking costs of equipment and market expectations, because the historic costs of the license are based on the knowledge and expectations at the time of licensing.

*For example.* A license for frequencies which require higher network cost would economically have a lower value at a certain date than a similar license for frequencies which require lower network costs. In a forward looking model therefore the ‘exogenous’ higher cost of the first type of frequencies should (largely) be compensated for lower market prices for the license. If historic license costs would be used, many other historic (such as commercial risk, equipment prices, etc.) which influenced the historic license costs should also be included.

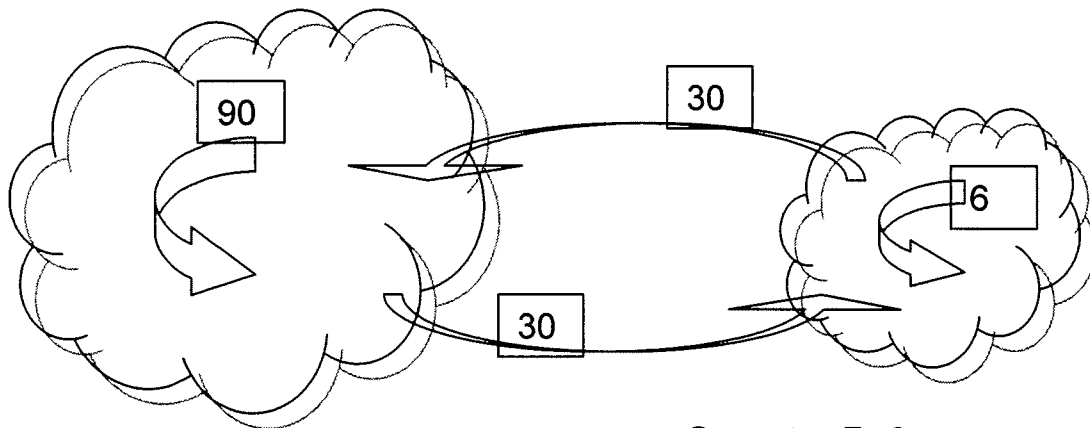
*[Q M4–M7 – Late market entrance]*

KPN supports the principle that the position of small and new entrants may require asymmetrical termination rates, for as long as the level of competition in the national mobile retail market is not sufficiently competitive. In some countries of the EU therefore asymmetries may still be required, whereas in others – such as The Netherlands – the fierce competition on the retail market already is such that asymmetries would distort competition.

*[Q M8 – M9 – Transitory exception before MTRs are at cost]*

In general KPN supports the fact that MTRs above cost should be lowered to cost levels gradually, by means of glide paths. Whether these glide paths should include (additional) asymmetries depends on specific – national – differences. In general, KPN does not agree with the conclusion that smaller operators – by definition – have higher costs because of the fact that they have relatively more off-net traffic (as described in p. 85 of the consultation document; ‘an unequal battle for smaller operators?’). A smaller operator does not only have higher costs, but also often has relatively more incoming traffic. This creates (as long as termination rates are above costs, as presumed here) also a margin to ‘subsidise’ the off-net calls.

See the following, simplified example with two operators and customers calling each other during 1 minute.



**Operator A: 10 customers**

**Operator B: 3 customers**

Explanation of this example:

- Each customer of operator A calls other customers of operator A once, so the number of onnet minutes is  $10 \times 9 = 90$ .
- Each customer of operator A calls customers of operator B once, so the number of offnet minutes is  $10 \times 3 = 30$ .
- Each customer of operator B calls other customers of operator B once, so the number of onnet minutes is  $3 \times 2 = 6$ .
- Each customer of operator B calls other customers of operator A once, so the number of offnet minutes is  $3 \times 10 = 30$ .

Conclusion: Related to the total amount of traffic (120 minutes for operator A, 36 minutes for operator B), operator B has to pay a higher amount for MTRs per average minute. For example: in a situation of symmetric MTR's with a hypothetical margin above cost for MTR of 6 cent, this is  $30 \times 6 / 120 = 1,5$  cent per average minute for operator A and  $30 \times 6 / 36 = 5$  cent per average minute for operator B. But these extra average minute costs are exactly compensated by the revenue for incoming MTR. In a situation of asymmetric MTR's operator B will have even higher revenues for incoming MTR. In that case the extra average minute costs will be more than compensated.

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