European prospective on net neutrality

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The french context

- The electronic communications sector is rather competitive…
  - broadband is dynamic thanks to local loop unbundling (LLU)
    - facility-based competition means long run investments
    - LLU geographic extension : objective of 70% population coverage in 2008
    - Market share of Orange / France Telecom is 50% ; Iliad-Free and Neuf Cegetel are around 20% ; Telecom Italia – Alice still in the game
  - the mobile market is not so closed
    - MVNOs are growing (3% market share in stock but 10-15% in adds)
    - Market shares are not so bad compared to other sectors (Orange around 50%, SFR 33%, Bouygues Telecom 17%)
    - A UMTS licence is still available

- … compared to the pay TV sector
  - Canal + and TPS merged
  - Canal + France today :
    - Market share > 70%
    - Exclusive rights

The french situation

- EC operators : discrimination is the exception
  - broadband
    - no exclusivity with Pay TV
    - Skype, Wengo, VoD platforms are available (billing partnerships exist)
  - mobile
    - a neutral internet access exits
    - partnerships also (instant messaging, 3G TV, service providers, etc.)

- Pay TV players : discrimination is the rule
  - TV editors practices before Canal+ / TPS merger :
    - Satellite : Canal+’s channels not avaiblable on TPS and vice versa
    - ADSL : Iliad-Free running after pay TV
    - Cable network : the exception
  - Exclusive rigths on premium contents

The legal framework today

- Imposing obligations is possible in EU framework
  - suppose that the regulation is not limited to the relation between operators
  - « *national regulatory authorities shall be able to impose to the extent that is necessary to ensure end-to-end connectivity, obligations on undertakings that control access to end-users, including in justified cases the obligation to interconnect their networks where this is not already the case* » (art. 5 of access directive)
  - ARCEP implementation for voice value added services:
    - obligations for both local loop (outgoing) and host (ingoing) operators : reasonnable access to numbers on objective, transparent and <u>non discriminatory</u> conditions
    - obligation for local loop operators : reasonnable billing commission

- Pay TV regulation
  - Common competition right (PPV, football rights)
  - Commitments from Canal+ France in the frame of the merger
  - Resolution of disputes by the Conseil Supérieur de l'Audiovisuel (CSA)

What fibre changes?

- Fibre roll out in France
  - announcements :
    - Iliad-Free : 1 b€ in 5 years (FttH P2P), in Paris but not also
    - France Telecom (FttH PON)
      - 280 M€ and 1 M households before 2008 (Paris, Lyon, Marseille, Toulouse, Lille, Poitiers)
      - only for « pre-deployment »
    - Neuf Cegetel : 250 M€ in 3 years (FttH and FttB)
    - Noos Numericable : return of the cable
  - fibre « french moment » regarding the ladder of investment:
    - FttCab not adapted because of copper network topology
    - roll out of own infrastructure is the next step for alternative operators after LLU

- Facility-based competition could thus re-enforce…
  - cable network and LLU operators
  - ARCEP’s work program:
    - ducts regulation
    - symetric rules to share the last meters
    - give guidelines to local authorities

- … at the expense of asymetric regulation at higher level