[NL]Guidelines on the Access to Cable Television Networks

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The Netherlands Regulatory Authority for the Telecommunications and Postal sector (OPTA) and the Dutch competition authority (NMa) have published guidelines on access to cable television networks. The NMa has a general authority based on the Competition Act to settle certain types of conflicts. OPTA - based on the Telecommunications Act - has the power to give instructions if the provider of a cable television network and the provider of a programme cannot reach agreement on the access to the programme offered to the cable television network concerned.

In the guidelines the two regulators indicate how they would handle disputes. First of all the competition authority will generally refer all cases to the OPTA as the sector-specific regulator. OPTA will examine the case using criteria that resemble the `open network provision' (ONP) known from telecommunications regulation. Cable television operators - considered dominant players in their market - are not allowed to refuse programme services unless there is no capacity available. Also the programme provider has to pay a cost price oriented access fee. This fee (but also the other conditions) must be non-discriminatory. The operator is not allowed to give preferential treatment to his own programme services. Programme providers that are part of the so-called basic package (this package consists of at least 15 TV and 25 radio programmes, the minimum regulated by the Media Act) are exempted from paying an access fee. The basic package has to be paid entirely from the subscription fees.

The guidelines may have a substantial impact on the cable television service, known for its lack of transparency and cross-subsidisation of tariffs.

OPTA/NMa, Richtsnoeren met betrekking tot geschillen over toegang tot omroepnetwerken, Staatscourant 1999, n. 159, p. 6.

Guidelines for disputes on access to cable television networks, Staatscourant 1999, nr. 159, p. 6.

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