[NL] Legal Dispute between Public and Commercial Broadcasters over Soccer Broadcasting Rights

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On 25 July 2007, the Dutch District Court of Amsterdam delivered its judgment in a case pitting the interests of the public broadcasting organisation NOS (the umbrella organisation representing all of the Netherlands' public service broadcasters) against the recently dismantled commercial television broadcaster Talpa - previously owned by media magnate John de Mol, one of the founders of the Endemol media empire (famous for the Big Brother reality show). The dispute concerned the coveted broadcasting rights of the national soccer league. These rights had been purchased by Talpa during the auction held by the national soccer league in the year 2004. The auction concerned the seasons of 2005-2006 and 2007-2008, whereby being the highest bidder Talpa had acquired part of these rights. NOS, however, having lost these rights which it had previously held for years, attempted to negotiate a secondary license from Talpa. When this approach failed, NOS tried again this time asking the Dutch Media Authority for a final decision in its favour. NOS based its claim on Article 71t of the *Mediawet* (Media Act), arguing that this article should be construed as granting it priority in cases where it also shows an interest in broadcasting a programme - subject to exclusive rights - and as obliging Talpa to enter into negotiations in order to concede a secondary license against reasonable compensation.

Neither the Media Authority nor ultimately the District Court accepted this interpretation of Article 71t of the Media Act. The Court decided that the Media Act does not impose on the private broadcaster an "obligation to negotiate" vis-à-vis NOS, nor does it grant NOS a "right to a positive outcome" of eventual negotiations. Therefore Talpa was allowed to retain its broadcasting rights without having to give in to the NOS request. The Court left aside a discussion with respect to the actual content of article 71t.

LJN: BB0477, Rechtbank Amsterdam , AWB 06/1441 WET

http://zoeken.rechtspraak.nl/detailpage.aspx?ljn=BB0477

Judgment of 25 July 2007, BB0477, District Court of Amsterdam

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