

[NO] Battle on the Access for a Second Pay-TV Operator in the Digital Television Network

IRIS 2008-9:1/29

*Lars Winsvold
Attorney at Law, Fredrikstad*

The holder of the licence to the nationwide Digital Terrestrial Television Network (DTT) in Norway, Norges Televisjon AS (NTV), is subject to a term obliging it to provide access to a second independent Pay-TV operator. But the amount of capacity out of the total of five multiplexes that should be reserved for the second Pay-TV operator in order to ensure competition on the platform has not been made at all clear. The issue has caused a battle between, on the one side, NTV and the existing Pay TV operator, RiksTV AS, which have common shareholders (Norwegian Broadcasting Corporation, TV2 AS and Telenor AS), and, on the other side, the NRA (the Post and Telecommunication Authority), as well as an other interested party (the Pay-TV operator Modern Times Group MTG AS).

In December 2007, NTV made a call for the expression of interest to licence a second Pay-TV operator. A half multiplex should then be made available from 2010, following the completion of the analogue switch-off. After the switchover in 2009, Norway will have five multiplexes (with transmissions in the MPEG-4 standard). The first two multiplexes are already allocated to the National Public Broadcaster NRK (Norwegian Broadcasting Corporation) and the commercial Public Service Broadcaster (TV 2 AS). Two and a half multiplexes have been allocated, by NTV, to the existing Pay-TV operator RiksTV AS, with the remaining half multiplex held back from competitors.

Prior to the deadline for indicating interest in March 2008, NTV was forced by the Post and Telecommunication Authority to withdraw its call. The Post and Telecommunications Authority believed the half multiplex to be insufficient for competition on the DTT-platform. NTV, on the other hand, expressed the opinion that the existing Pay-TV operator needed all the capacity allocated in order to compete with other Pay-TV platforms, such as cable and satellite. After a hearing procedure, the Norwegian Post and Telecommunications Authority filed its formal decision in July 2008, ruling that NTV should at least reserve one and a half multiplexes for a competing Pay-TV operator. The Authority also stressed that the operators should be able to share some parts of the technical capacity in order to increase the total number of services.

NTV has appealed the decision to the Ministry of Transport and Communications. The Authority shall now decide whether it will accept NTV's complaint or pass it on to the Ministry for a final decision. A decision by the Ministry is expected in late

autumn 2008 or early in 2009.

-

http://www.npt.no/portal/page/portal/PG_NPT_NO_NO/PAG_NPT_NO_HOME/PAG_NPT_NO_TEKSTVISNING?p_d_i=-121&p_d_c=&p_d_v=107192

Decision of the Norwegian Post and Telecommunications Authority

