[NL] OPTA Publishes Final Tariffs

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The *Onafhankelijke Post en Telecommunicatie Autoriteit* (Independent Post and Telecommunications Authority - OPTA) has published its final rules and tariffs for Holland's two largest cable operators, UPC and Ziggo. Already on 22 December 2009, the European Commission stated that it had no comments on the draft version of the decision by OPTA (see IRIS 2010-2: 1/3). Now OPTA has published a slightly amended version of its decision.

Last year, Holland's four largest cable operators were labeled as having significant market power by OPTA. However, OPTA imposed a 'Wholesale Line Rental - Cable' obligation on only two of these: Ziggo and UPC. By obliging cable operators to sell their products to alternative providers at a fixed (low) rate, alternative providers will be able to resell them and so improve their digital offers, provide analogue transmission over the cable platform and sell packages (internet, telephony and television) to their customers.

The prices were set by the draft decision at EUR 8.84 for services purchased from UPC and at EUR 8.46 for services purchased from Ziggo per month per subscriber (before tax), while only the inflation rate could be taken into account when deciding upon price increases. In the final decision this rate is one cent lower. Another change has been made regarding the periods in which the two operators are obliged to make their networks available. Regarding making the networks available to third party sellers for subscribers that only require the analogue TV product from the cable companies, the original proposal suggested a term of 8 weeks, while, following complaints, this has been changed to 12 weeks. Also, with regard to cable customers who want to buy dual or triple play, an extension in terms has been made from 28 to 35 weeks. Newcomers in the market have to pay a fee of EUR 30,000 to the operator to launch their services.

In its decision OPTA did not regulate the responsibility for the payment of copyrighted content. This gap resulted in a complaint, made by newcomers Tele2 Nederland B.V. and Online Breedband B.V. against UPC and Ziggo. The request regarded the obligation of 'third party billing' by UPC and Ziggo, who were both hesitant. Tele2/Online wanted to have the possibility of reselling analogue-cable offers on behalf of UPC/Ziggo, which would give them the advantage of not having to make a contract with every single programme provider. However, this could be a form of copyright infringement, as it is forbidden to publish copyrighted content

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without the express consent of the author. One of the largest TV-providers, CLT, for example, has prohibited UPC and Ziggo from distributing wholesale TV-signals to other providers. OPTA has said that a judge has to decide upon the problem. Critics say that it could take years before there is final clarity on this topic.

Finally, both newcomers and UPC and Ziggo have made a complaint to the Dutch trade court *College van Beroep voor het Bedrijfsleven* (Court of appeal for Businesses - CBB) on the earlier published market analysis by the OPTA, upon which these regulations are based.

Besluit inzake geschil Tele2/Online - Ziggo

http://www.opta.nl/nl/download/publicatie/?id=3161

Decision in the case of Tele2/Online - Ziggo

Besluit inzake geschil Tele2/Online - UPC

http://www.opta.nl/nl/download/publicatie/?id=3160

Decision in the case of Tele2/Online - UPC

Implementatiebesluit WLR-C (Ziggo)

http://www.opta.nl/nl/download/publicatie/?id=3148

Implementation Decision WLR-C (Ziggo)

Implementatiebesluit WLR-C (UPC)

http://www.opta.nl/nl/download/publicatie/?id=3147

Implementation Decision WLR-C (UPC)

Tariefbesluit WLR-C (UPC en Ziggo)

http://www.opta.nl/nl/download/publicatie/?id=3146

Tariff Decision WLR-C (UPC and Ziggo)

Openbare zienswijzen op de implementatiebesluiten WLR-C

http://www.opta.nl/nl/download/publicatie/?id=3152

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Public views on the implementation Decision WLR-C

Reactie Europese Commissie op de implementatiebesluiten WLR-C (UPC en Ziggo)

http://www.opta.nl/nl/download/publicatie/?id=3153

Reaction of the European Commission to the implementation decision WLR-C (UPC and Ziggo)

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