

[NO] The First Ex Ante Test Completed

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On 9 November 2012 Kongen i statsråd (Norwegian King in Council - highest administrative level of the executive power) approved that Norsk rikskringkasting AS (the Norwegian public service broadcaster - NRK) could include a new travel and route planner in its public service remit. The new service is a co-operation between NRK, the Directorate of Public Roads, Trafikanten Ltd and Ruter Ltd.

In 2009 the Norwegian Broadcasting Act was amended by a regulation requiring a pre-consent from the Government for any significant new service that NRK wants to include in its public service remit. The regulation specifies that 'only services that meet the democratic, social and cultural needs of society' may be added to the public service remit, and the NRK Statutes further define the scope of activities that fall within the remit.

NRK submitted its first ex ante application in April 2011, which initialized assessments in four steps. First, the Norwegian Media Authority assessed (a) that the new travel and route planner had to be subject to an entrustment procedure because it represented a significant change from NRK's existing services, (b) that there was an existing market as well as a potential future market for this type of service and (c) finally, that the costs of the service were considered to be substantial. In the next step, NRK's application was submitted to a public consultation, in which several actors in the media market expressed concerns about the market impact of NRK's expansion with new media services and the broad definition of NRK's public service remit. The Norwegian Competition Authority's assessment concluded that NRK's planned travel and route planner would have 'a substantial negative impact on existing commercial actors that are in the process of developing Internet search engines which provide travel and route planners, and also Internet portals that compete with nrk.no' and that it could 'reduce commercial actors' incentives to invest in both establishing Internet travel and route planners and development and improvement of existing services'.

The Media Authority carried out the overall assessment in the third step of the procedure. In its advisory statement to the King in Council, the Media Authority concluded that, even though the travel and route planner could contribute towards achieving certain socio-economic purposes by providing travel and route information on one website, it could not clearly be justified within the democratic,

social and cultural needs of society as these are defined by NRK's public service remit. The Media Authority, therefore, did not recommend that the travel and route planner should be included within NRK's remit, and meant that it was necessary to look at the media political aims that NRK's remit is supposed to maintain in order to give a clear and precise delimitation to NRK's mandate.

In the fourth and final step, the King in Council decided that NRK could include the traffic and route planner in its public service remit on certain conditions, mainly linked to equal access to public data and commercial aspects. The Royal decree of the King in Council determines that the traffic and route planner can be justified within NRK's Statutes and that the new service contains an element of added public value relative to the potential commercial offers already existing in the market. In the weighing against the potential restrictive impact of the service on competition, the conclusion is that the added value of the service exceeds such eventual effects.

Medietilsynets vurdering av Trafikkportalen, rådgivende uttalelse av 12. juli 2011

http://www.medietilsynet.no/Documents/Aktuelt/Horinger%20og%20kunngjoringer/FGP_NRK Trafikkportalen_120711.pdf

Media Authority (12 July 2011) The overall assessment of the new traffic and route planner, advisory statement

Norsk rikskringkastings søknad om å innlemme Trafikkportalen i allmennkringkastingsoppdraget, 09/11/2012

http://www.medietilsynet.no/PageFiles/11370/121109_kgl-res_trafikkportalen.pdf

Royal Ministry of Culture (9 November 2012), The Royal decree to King in Council

