[NL] Access to cable update

IRIS 1997-2:1/20

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In addition to the decisions summarized in IRIS 1997-1: 13), the Dutch Media Authority (Commissariaat voor de Media) has made three other rulings in disputes over access to cable networks. With regard to the complaint of MTV, in which case the Authority made an interim decision on 30 July 1996 (see IRIS 1996-8: 14), the Authority made a final ruling on 20 December 1996 which is similar to the rulings regarding NetHold and Arcade. Because the cable distributor (in the case of MTV Stichting CombiVisie Regio) refused to submit data that would enable the Authority to verify whether the requested distribution fee is reasonable and fair, the Authority set the distribution fee on zero. The Media Authority was barred from demanding information from cable distributors by the President of the District Court of Den Bosch (ruling of 2 October 1996; see IRIS 1996-10: 19), who ruled that the Media Authority only has the supervisory power to decide whether and how a complainant should be admitted to a certain cable network (in the USA referred to as `cable system') and is not entitled to request data from a cable operator. The zero rate is set for the period until 1 April 1997. This date was chosen because the Minister of Economic Affairs decided on 17 December 1996 that Kabeltelevisie Amsterdam (KTA), the distributor of the programmes of NetHold and Arcade, must review its tariff structure within three months, i.e. before 1 April 1997.

Although those ministerial decisions did not apply to the distributor of MTV (Stichting CombiVisie Regio) , the Media Authority decided nevertheless to let the `free distribution' expire on that date. The Media Authority made an identical decision regarding the complaint of the Dutch association of commercial radio stations (NVCR) and 11 commercial radio stations; a distribution fee of zero until 1 April 1997. This complaint and subsequent ruling are directed agaist KTA, who is forced by the Minister's ruling to revise its tariff structure before 1 April 1997. The third ruling of the Authority regarded the complaint of Wegener Kabel TV against the cable network of the municipality of Veendam (Stichting Kabelnet Veendam) . Here the Media Authority ruled that the distribution of Wegener's cable information service may not be discontinued after 1 January 1997. Decisive factors were that sufficient distribution capacity is available and that the grounds for discontinuation - the wish for a higher distribution fee - are not objective and reasonable.

On 10 January 1997, the Commissariaat voor de Media presented an evaluation of its rulings regarding access to cable. The report recommends to continue the

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Authority's supervisory power after 1 January 1998. On departemental level plans are being developed to establish a new regulatory authority to supervise competition issues like access to cable networks (i.e. cable systems).

Beschikkingen Commissariaat voor de Media, MTV Europe ./. Stichting CombiVisie Regio, NVCR u.a. ./. KTA, Wegener Kabel Tv ./. Stichting Kabelnet Veendam. 'Het Commissariaat voor de Media en de toegang tot de kabel - Artikel 69 van de Mediawet in de praktijk, 10 januari 1997.

Decisions by the Media Authority of 20 December 1996 in the cases of MTV Europe vs. Stichting CombiVisie Regio, NVCR c.s. vs. KTA and Wegener Kabel TV vs. Stichting Kabelnet Veendam. 'Het Commissariaat voor de Media en de toegang tot de kabel - Artikel 69 van de Mediawet in de praktijk', 10 January 1997.

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