[NL] Amendments to frequency allocation regulation

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On 1 September 2014, an amendment to the Dutch frequency allocation regulation, the 'Frequentiebesluit 2013' (Frequency Decree 2013), entered into force. This regulation sets out rules and guidelines for the distribution of spectrum usage rights by the Minister for Economic Affairs. The aim of the 2014 amendments is to increase legal certainty for current and prospective licensees by ensuring timely ministerial decisions on the granting of licenses (for previous amendments, see IRIS 2003-1:12).

The Frequentiebesluit of 2013 was an attempt at creating a more flexible framework for the allocation of spectrum usage licences, which was deemed necessary 'in order to adapt to rapid technological and international developments in the field of wireless communication'. It prescribed that ministerial decisions on requests for the renewal of spectrum usage licences were to be made between two and one years before the expiry of current licences.

The explanatory memorandum to the 2014 amendments shows that this period was considered to be too short by market participants, who required timely knowledge of redistribution plans in order to adapt business strategies and to make technical arrangements such as equipment replacements. Now, with the 2014 amendment, the term for renewal of decisions has been shifted to between two and four years before expiry, thereby creating a greater degree of foreseeability and certainty for current license holders and applicants. The regulation makes an exception for commercial licensees, however, to whom a term of between one and four years before expiry applies.

Besides these altered temporal requirements, the 2014 amendments also create a ministerial competence for licence extensions upon the minister’s own initiative (i.e. even in absence of applications for renewal). Within two years before the expiry of a current licence, and in the absence of an application for renewal, the minister may now extend licences if he considers this to be in the interest of ´service continuity´. With the interests of end users in mind, this allows the government to prevent service disruption due to the expiry of licences before the completion of redistribution procedures and the accompanying technical arrangements. In the words of the explanatory memorandum, this rule entails a formalisation of the intended ´director´s role´, which the minister must play in the allocation of scare frequencies.

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Frequentiebesluit 2014: Besluit van 10 juli 2014, houdende wijziging van het Frequentiebesluit 2013 in verband met de aanpassing van de voorschriften met betrekking tot de verlenging van vergunningen voor schaarse frequentieruimte

https://zoek.officielebekendmakingen.nl/stb-2014-277.html

Frequency Decree 2014: Decree of 10 July 2014, concerning amendment of the Frequency Decree 2013 relating to the adjustment of rules governing the extension of licences for scarce frequency space

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