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COMMUNICATIONS OUTLOOK 1999

TELECOMMUNICATIONS: Regulatory Issues

Country: Netherlands

Date completed: 2 September 1998

The attached questionnaire was undertaken in preparation for the biennial OECD *Communications Outlook*. The responses provided by countries on telecommunication regulation were used to provide information supporting the analytical sections published in association with data. A similar questionnaire with responses on broadcasting regulation is also available. In some cases, data for individual firms, used to compile OECD totals, have not been published at the request of the respondent. For further information, including data, see **OECD Communications Outlook 1999** and <http://www.oecd.org/dsti/sti/it/index.htm>

TELECOMMUNICATIONS

Market Structure and Regulatory Status (Questions 1-13)

1. Please provide detail of the regulation of communication infrastructure, including the public switched telecommunication network (PTSN), provision in your country.

OPTA

| Infrastructure provision for following service | Regulatory Status (e.g. monopoly, duopoly, limited number, fully open to any applicant) | Number of licensed operators (1998) |
|---|---|-------------------------------------|
| Local PSTN | Fully open | 160 (only a few active at present) |
| National PSTN | Fully open | 3 |
| International PSTN | Fully open | 3 |
| Analogue Cellular Mobile (e.g. NMT etc.) | Fully open | 1 |
| Digital Cellular Mobile (e.g. GSM etc.) | Fully open, dependent on frequencies | 6 |
| Other Mobile Communication (e.g. PCS, PCN CT-2, etc.) | Fully open, dependent on frequencies | 2 |
| Payphones | Fully open | 1 |

2. Please provide details for the major public telecommunication operator (PTO) of public switched telecommunication services in your country. (PTOs are state and privately owned entities providing public switched telecommunication services over their own infrastructure)

| Name of PTO | PTO Ownership Status (1998) (e.g. state owned/privately owned) if a balance of ownership exists please indicate the share (%) held by the government |
|------------------|--|
| KPN Telecom N.V. | 43.8 % held by government |

3. Please provide details of market share for the largest PTO in the following categories.

| | The largest PTO's share (end 1997) |
|---|------------------------------------|
| Local Access (% of access lines) | KPN +/- 99% |
| National Long Distance (% of total minutes) | KPN +/- 80% |
| International (% of total outgoing MiTT) | KPN +/- 80% |

4. Please provide details of the number of subscribers by cellular and PCN mobile communication operators.

| Name of Operator | Number of subscribers (end 1997) |
|------------------|----------------------------------|
| 1. KPN | 1.200.000 |
| 2. Libertel | 532.000 |
| 3. Federa | Not started yet (DCS1800) |
| 4. Telfort | Not started yet (DCS 1800) |
| 5. Tele Denmark | Not started yet (DCS 1800) |
| 6. Orange | Not started yet (DCS 1800) |

5. Please provide a description of the most significant recent policy changes affecting the provision of telecommunications services, as well as any draft laws, or regulatory proposals to be implemented in 1998.

15 July 1996: so called 'interim-legislation', changing the *Wet op de telecommunicatievoorzieningen* ((WTV) the current telecommunications act). This legislation liberalised infrastructure at the moment of enactment of the legislation and furthermore liberalised voice telephony at the first of July 1997;

11 July 1997: so called 'July legislation'. This legislation introduced the obligation for the incumbent operator (KPN) to interconnect and/or to give special access to any party wanting to use KPN's fixed public telephone network for the provision of public telecommunications services.

Forthcoming (summer 1998): a new telecommunications act replacing the WTV. In this new law all relevant European directives are implemented. Under the new regime licenses are only required for the use of frequencies and the use of numbers. In all other cases only a registration is required.

6. Please provide a brief description of the responsibilities of the national regulatory authorities for public telecommunication services.

The national regulatory authority, OPTA, is responsible for the supervision of compliance with the rules laid down in the Telecommunications Act. Furthermore OPTA has to appoint parties that have a significant market power (a party with significant market power has extra obligations (e.g. non discrimination, and in most cases the obligation to have cost oriented tariffs for interconnection and fixed public telephony)). Another important task is the resolution of disputes, e.g. in the field of interconnection or disputes between end-users and parties offering fixed telephony and leased lines. Furthermore OPTA is responsible for the allocation of numbers.

7. Are there any foreign ownership, size of shareholding or other ownership restrictions on individuals and corporations investing in the incumbent PTO(s) in your country?

No

8. Are there any communication infrastructures or services (e.g. cable television, terrestrial broadcasting, satellite broadcasting) PTOs in your country are not permitted to directly provide? In addition, please specify any restrictions on PTOs investing in companies that such infrastructure or services.

No, not under the regime of the new Telecommunications Act.

9. Is the incumbent PTO(s) in your country allowed to provide mobile communications services.

If Yes, is there a requirement for accounting separation between the PTO's mobile and fixed operations?

OPTA

Yes, account separation between fixed 'voice' and leased lines and between fixed and mobile.

10. What selection procedures are used to determine licenses for new Pots (e.g. calls for tenders, government appointments, license on request)?

For the provision of voice telephony no license is required.

11. Please specify any restrictions or obligations imposed on new competitive network suppliers?

There are no specific restrictions or obligations imposed on new competitive network suppliers other than the obligation to interconnect if one controls the access network, to register with the national regulatory authority, to facilitate legal tapping, and to comply with (specific) privacy regulation.

12. Are there any restrictions on the use of leased lines nationally or internationally (including resale)?

No.

13. Under the communication regulation existing in your country how would national and international voice telephony services provided over the Internet, by entities other than a PTO, be defined and treated? Please mention any restrictions or obligations that may apply.

Notwithstanding the fact that everyone is allowed to offer public voice telephony services, the new Telecommunications Act does set out certain rules concerning the offering of public voice telephony. However these rules do not apply because telephony provided over the Internet is, in line with a communication of the European Commission, not regarded as public voice telephony in the context of the regulation. Therefore there are no other rules applicable than that for public telecommunication services in general (obligation to register and to facilitate legal tapping and compliance with privacy regulation).

Pricing (Questions 14-15)

14. What, if any, conditions are applied to the tariffs set by PTOs? (Please, include any price control information such as price caps and specify for which service they apply).

In the framework of the Open Network Provision (ONP) regulations of the EU the following obligations apply to PTOs with significant marketpower regarding tariffs for leased lines and public voice telephony:
tariffs are based on objective qualitative and quantitative criteria,
tariffs are transparent,
tariffs are non-discriminatory and guarantee equal treatment,
tariffs are published in a proper and easily accessible manner,
tariffs are sufficiently unbundled,
tariffs are nationally uniform,
tariffs are based on cost orientation,
Only for the low user scheme, which is defined in the framework of Universal Service, are the tariffs for public voice telephony regulated by the Ministry. A Ministerial Decree is proposed at the time of this questionnaire, which says that the tariffs within the low user scheme are controlled by means of a fixing the prices for the currently offered low user scheme at the price level applicable in April 1998 (excluding an allowance for inflation).

15. If communication discount schemes are available in your country please provide information on one or more popular schemes applicable to residential users, dial-up Internet access users, and a low user scheme from the incumbent PTO. In the space below please indicate the main features:

In the Netherlands the dominant operator offers a low user scheme called 'BelBudget'.
Main features:
Low monthly rental fee combined with relatively high call charges. See attached tariff pamphlet.
Restrictions:
No carrier select allowed
No second line allowed
Only for residential users.

Residential User Discount Scheme: not applicable

Internet Access Discount Scheme: not applicable

Low User Scheme: see above

Note: Residential user refers to an average consumer's home telephone service. A dial-up Internet user refers to a consumer accessing the Internet via a PC with a modem over the local public switched telecommunication network. Low user schemes is a term sometimes applied by PTOs to schemes designed for segments of the community that are financially disadvantaged.

Numbering/Domain Names (Questions 16-17)

16. Please describe the numbering policy in your country. Please mention the responsible authority and whether portability has been introduced and for which services (e.g. 800 numbers, cellular numbers, local PSTN numbers).

The numbering policy is the responsibility of the Ministry of Transport, Public Works and Water Management, Telecommunications and Post department. This means that the Ministry develops the Numbering plans in which the numbers are linked to designations. The assignment process for numbers, according the number plan, is controlled by the OPTA. An example: as part of the numbering policy 16xy has been designated by the Ministry as “carrier selection codes” in the numbering plan whereby the OPTA assigns the digits xy to the applicants. The conventions according which the OPTA does all the assignments, the so called administrative procedures, are made by the Ministry.

The assignment of numbers must be done in a non discriminatory, transparent and objective way. This means that there should be equal access to numbering resources for all parties as well as published administrative procedures. When changing the numbering plan, by way of example for a new designation, the policy aims at a balance between the aspects numbering capacity, user friendliness, non discriminatory access and harmonisation (on the European level). Before changing the numbering plan a proposal is open for public consultation.

Regarding Number Portability we have the situation as described in the next table.

| Number Portability | Obligation (according new Telecommunications Act) | Realisation |
|--------------------------------------|---|--|
| Fixed (geographic) | 1/1/1999 | on schedule |
| Mobile | 1/1/1999 | on schedule |
| Freephone, simple | 1/1/1998 | 1/1/1998 |
| Freephone remainder; Premium rate | 1/1/1999 1/1/1999 | on schedule simple premium rate: 1/1/1998 |
| Block Number Portability (Fixed) | none | end of 1997 |

The simple (freephone) numbers are routed across the common infrastructure. The remaining numbers, for mass and media calling, need specific facilities and calls for these numbers are routed across a different infrastructure.

17. Have there been any recent government policy initiatives in your country in respect to the administration of Internet top level domain names. (an example of a top level domain name is .be for Belgium)

No

Interconnection (Questions 18 - 21)

18. Are PSTN interconnect or access charges a matter for commercial agreement between operators and if so is there provision for arbitration and by whom? Is there a requirement to publish the rate for PSTN interconnect or access charges? Yes!

If 'Yes' please provide a schedule of interconnection charges for the PSTN.

Dispute resolution by OPTA.

Interconnection charges (please indicate measure e.g. cost per minute for terminating or originating traffic): see attached charges schedule at the end of this document.

19. For the purpose of establishing interconnect or access charges is accounting separation used?

Not yet. It is intended that this will be implemented in the second half of 1998. It will be a cost allocation system based on 'embedded direct cost'. Based on this system, OPTA will decide on cost orientation of interconnect and special access tariffs on 1 July, 1998.

20. Once the interconnection or access charge has been established is it available as a standard rate for other service providers (including other PTOs and resellers)?

Yes, other service providers are entitled to the same charges and conditions for the same standard functionality's. A reference interconnection offer has to be published.

21. (1) Does regulations specify that competitive service providers can co-locate facilities on the same site as incumbent PTOs? (2) Please indicate whether resellers and Internet Service Providers can co-locate equipment under the same terms and conditions as PTOs without being designated as a PTO?

(1) No the (new) Telecommunications Act does not have special rules for co-location except for an obligation for the holders of a licence for the use of frequencies to reciprocally fulfil reasonable requests to share aerial installation points and an obligation for parties that offer public telecommunication networks to fulfil all reasonable requests for the sharing of cable ducts.

(2) Yes.

Information for Updating OECD Tariff Comparison Baskets (Question 22)

22. Please provide the following information for your largest PTO.

KPN

| | | |
|--|---------------------|------------------------|
| What is the average duration of a local call (i.e. average time of a call in the lowest tariff band for PSTN)? | 3.4 minutes | |
| What is the proportion of calls that fall within your lowest tariff band (i.e. local calls) as a percentage of total national calls? | Business (%) 60% | Residential (%) 60% |
| What percentage of calls from the fixed network (PSTN) terminate in mobile networks (e.g. analogue and digital cellular networks)? | Business (%) 4% | Residential (%) 4% |
| What percentage of total leased lines (i.e. leased circuits) are local (i.e. 2 km or less)? | Approx. 40% | |

Universal Service/Consumer Issues (Question 23 - 25)

23. In the context of universal service policies which elements of telecommunication service are considered as part of universal service in your country?

- Access to and use of the fixed public voice telephone network (more specifically: a low user scheme which guarantees affordable connection to and use of the fixed public voice telephone network for users who have very limited call volumes).
- Availability of a sufficient number of public telephone boxes (1 per 5000 inhabitants)
- Free access to emergency services
- Availability of telephone guidebooks and public telephone information service.

24. Please provide details of any explicit funding mechanism for universal service and its coverage.

If, in the opinion of the Minister, the availability, affordability or the quality of one or more of the public telecommunication services designated under Universal Service is not or may not be guaranteed by the normal functioning of the market, the Minister may issue a decree assigning the provision of the services or facilities concerned in an area of coverage to be determined by that order for no longer than five years to the provider which according to a public procurement procedure (tender) is designated as expecting the lowest total net costs.

If compensation is granted to a provider who provides public telecommunication services or facilities on the basis of an assignment following the tender procedure, anyone providing a public telecommunications service belonging to a category of public telecommunications services designated in the framework of universal service, and who has a higher turnover for the service in the Netherlands than the amount stipulated by Ministerial regulation in the calendar year to which the compensation to be paid relates, shall owe a contribution. the contribution which the relevant providers have to pay will be calculated in proportion to the annual turnover in the Netherlands of each of these providers.

25. With what institutions other than telecommunication service providers can customers lodge complaints regarding these operators? (e.g. regulators, ombudsman, Ministry, etc.) Is there a requirement for annual reporting of the number of consumer complaints? If so how are complaints be measured and reported.

The regulator : the Opta.

An (independent) dispute commission installed by the market party itself. In most cases The *Geschillencommissie voor post en telecommunicatie* (dispute commission for post and telecommunication), and (of course) civil court.

Under current regulation (WTV) there is an obligation for KPN, the GSM licensees, the holders of a combined licence for DCS 1800 and GSM and the holder of an ERMES licence, to publish annually the number of complaints made to the dispute commission and the character of the decisions made (in favour of the customer or in favour of KPN). Under the new Telecommunications Act there is no publication obligation.

Attachment 1: **Interim Interconnection tariffs 1 July 1997 - 1 May 1998**

Conveyance charges (cts)

| | | | |
|-----------------------------------|-------------------|-----|------|
| Average tariff per minute: 4.2 | | low | high |
| terminating access national | set up traffic | 2.4 | 3.0 |
| | | 2.3 | 4.2 |
| Average tariff per minute: 3.3 | | low | high |
| terminating access regional | set up traffic | 1.9 | 2.3 |
| | | 1.8 | 3.3 |
| Average tariff per minute: 2.1 | | low | high |
| terminating access local | set up traffic | 1.2 | 1.5 |
| | | 1.2 | 2.1 |
| Average tariff per minute: 5.8 | | low | high |
| carrier select national | set up traffic | 3.4 | 4.1 |
| | | 3.2 | 5.8 |
| Average tariff per minute: 4.9 | | low | high |
| carrier select regional | set up traffic | 2.8 | 3.4 |
| | | 2.7 | 4.9 |
| Average tariff per minute: 3.7 | | low | high |
| carrier select local | set up traffic | 2.1 | 2.6 |
| | | 2.1 | 3.7 |

2 Mbit/s Port fl. 59.400 or
fl. 10.700/year or
0.3 ct/min

Interconnection tariffs 27-05-1998

Interim Interconnection tariffs 1 May 1998 - 1 July 1998

Conveyance charges (cts)

| | | | |
|-----------------------------------|-------------------|-----|------|
| Average tariff per minute: 4.2 | | low | high |
| terminating access national | set up traffic | 2.4 | 3.0 |
| | | 2.3 | 4.2 |
| Average tariff per minute: 3.3 | | low | high |
| terminating access regional | set up traffic | 1.9 | 2.3 |
| | | 1.8 | 3.3 |
| Average tariff per minute: 2.1 | | low | high |
| terminating access local | set up traffic | 1.2 | 1.5 |
| | | 1.2 | 2.1 |
| Average tariff per minute: 4.5 | | low | high |
| carrier select national | set up traffic | 2.6 | 3.2 |
| | | 2.6 | 4.5 |
| Average tariff per minute: 3.6 | | low | high |
| carrier select regional | set up traffic | 2.1 | 2.5 |
| | | 2.0 | 3.6 |
| Average tariff per minute: 2.4 | | low | high |
| carrier select local | set up traffic | 1.4 | 1.7 |
| | | 1.3 | 2.4 |

2 Mbit/s Port fl. 59.400 or
fl. 10.700/year or
0.3 ct/min

Interconnection tariffs 27-05-1998