



## COMMUNICATIONS OUTLOOK 1999

### BROADCASTING: Regulatory Issues

**Country: Netherlands**

**Date completed: 3 September 1998**

The attached questionnaire was undertaken in preparation for the biennial OECD Communications Outlook. The responses provided by Member countries on broadcasting regulation were used to provide information supporting the analytical sections published in association with data. A similar questionnaire with responses on telecommunication 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>

### **Broadcasting market status (Questions 1-3)**

**1. Please provide details of the broadcasting and cable television infrastructure provision in your country.**

Infrastructure provision for following service	Number of licensed operators (1998)	Number of privately owned companies	Number of public service organisations
Terrestrial TV (National coverage)	18 broadcasters on 3 TV channels	18 privately owned, but with public funding	18 broadcasters on 3 TV channels
terrestrial TV (Local coverage only)	111 local broadcasters 11 regional broadcasters	all privately owned	122 (111 local and 11 regional)
Terrestrial radio (National coverage)	25	25, but 18 with public funding	18 broadcasters on 5 radio channels
Terrestrial radio (Local coverage only)	319 local broadcasters 13 regional broadcasters		332 (319 local and 13 regional)
Cable television service	479	210	269
Analogue direct broadcast satellite (DBS) service	18	18 privately owned, but with public funding	18 broadcasters on 3 TV channels
Digital DBS service	24	24, but 18 with public funding	18 broadcasters on 3 TV and 5 radio channels

Public Broadcasters in the Netherlands are privately owned, but have public funding and a public task. That makes them public broadcasters. Private broadcasters (in Dutch terms commercial broadcasters) do not have the public funding or task.

**2. Please provide details for the major public/private terrestrial TV broadcasting companies in your country. They include state and privately owned organisations providing broadcasting services with national coverage.**

Name of public/private terrestrial TV broadcasting companies	Ownership Status (1998) (e.g. state-run/state owned/privately owned)	Do they own transmissions infrastructures? If not, please indicate the name of company which provide transmission infrastructures.
18 public broadcasters on 3 TV channels	Privately owned but with public funding	NOZEMA

Private (commercial) TV broadcasters are only transmitting by cable/satellite.

**3. What was the price of cable television service for a subscriber in the largest city of your country on 1st January 1998? Basic service corresponds to the least expensive option to a customer and premium service the most expensive option. (Local currency, current prices)**

Cable Television services	Basic service			Premium service	
	Connection	Monthly subscription fees	Number of cable channels included in the basic option (excluding free services)	Monthly subscription fees	Number of cable channels including the premium option (excluding free services)
(Please indicate the name of operator)	A2000 (Amsterdam)	16.96 guilders	26 TV 39 radio	32.00 guilders	39 TV 39 radio
(National average, if available)		18.25 guilders	30 TV 30 radio	30.00 guilders	40 TV 35 radio

**Broadcasting Regulatory Framework (Questions 4-9)**

**4. Which organisation(s) administer the following services (carriage and content) in your country and what are their main responsibilities? Please mention agencies dealing with spectrum allocation and management, and providing licences.**

<p><b>a. Terrestrial broadcasting service</b></p> <p><b>b. Cable television service</b></p> <p><b>c. Direct broadcast satellite (DBS) service</b></p> <p>Answer a, b and c. For carriage the Minister of Transport is competent. For content the following applies: The Media Authority is competent. The Media Authority may allocate local and regional broadcasting time to local and regional broadcasting organisations. A commercial broadcasting organisation must obtain permission from the Media Authority (art. 42, 71a Media Act). The Minister has the power to grant national broadcasting time to broadcasting associations (art. 31 Media Act). The Media Authority is charged with monitoring compliance with the provisions laid down in the Media Act.</p>
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**5. Please provide a description of significant recent policy changes affecting the provision of broadcasting services, as well as any draft laws, or regulatory proposals to be implemented in 1998**

Implementation of the Directive 97/36/EEC of the European Parliament and the Council of the European Union of 30 June 1997 (OEC L 202) concerning the changing of the Council directive 89/552/EEC of 3 October 1989 on the co-ordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (OEC L 298).

Liberalisation Media Act: legislation changing the Media Act and the Telecommunication Act by introducing specific regulation regarding the auction of frequencies for commercial broadcasting and broadening the possibilities for the owners of cable television networks in allowing them to make their own programmes.

**6. How is broadcasting defined in your country's regulatory framework? In addition, please specify public service obligations stipulated in broadcasting regulations.**

Definition of broadcasting:

Everything connected with the preparation, compilation, execution and transmission of public programmes which are intended for broadcast (art. 1, Media Act).

Public service obligations: Public broadcasting services shall use their television broadcasting time to provide a complete programme, which must at least include individual programmes of a cultural, informative, educational and entertaining nature (art. 50 Media Act).

**7. Are there must-carry rules? For example, are cable television or satellite operators required by regulation to provide capacity for certain services? If yes, please elaborate on the reasons.**

The programmes which cable network operators shall in any event be required to transmit are: programmes of organisations which have obtained national, regional, local broadcasting time, in the region where the cable network is located and Dutch language television and radio programmes of the Belgian public broadcasting service (art 82i Media Act).

Reasons: public broadcasting service must be received by everyone and the convention of the Taalunie with Belgium.

**8. Are there any local content requirements for broadcasters and cable television operators in your country in terms of the level of domestically produced content which must be broadcast, the amount of turn-over which must be allocated to domestic production or other criteria?**

Yes/No

	If yes, please provide local content specification and where applies
Terrestrial Television service	
Cable Television service	
DBS service	

Broadcasting organisations shall devote at least fifty (50%) of their television broadcasting time to individual programmes which may be qualified as European works within the meaning of the Directive 89/552/EEC of 3 October 1989 on the co-ordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (OEC L 298; art. 54 Media Act).

Broadcasting organisations shall devote at least 40% of their television broadcasting time to original individual programmes in Dutch or Frisian (art. 54a Media Act).

**9. Are there any limitations on share ratio, number of stations, or other ownership restrictions on entities investing in service providers of terrestrial broadcasting, cable television and satellite broadcasting in your country? Please refer to each service individually, if they have separate restrictions.**

No specific limitations.

**Cross-ownership and cross sector provision (Question 10-14)**

**10. Are there any restrictions on terrestrial broadcasting companies from directly providing the cable television infrastructures and services in you country? On the other hand, are there any restrictions on cable television operators from directly providing the terrestrial broadcasting companies in your country?**

- a. Restrictions on terrestrial broadcasting companies providing the cable television infrastructures
- b. Restrictions on terrestrial broadcasting companies providing the cable television services

Answer a + b

No specific restrictions. The activities may not have a detrimental effect on its performance as an organisation which has obtained broadcasting time.

- c. Restrictions on cable television operators providing the terrestrial broadcasting
- Cable network operators may transmit programmes provided by the cable network operator itself provided that the cable network operator has obtained permission to provide a programme.

**11. Please specify any restrictions on cable television operators and terrestrial broadcasting companies investing (including merging and acquiring shares) in companies that provide other infrastructures or services.**

No specific restrictions.

**12. Are there any restrictions or limitations on foreign investment regarding services of terrestrial broadcasting, cable television and satellite broadcasting in your country? Please refer to each service individually, if they have separate restrictions.**

There are no specific restrictions. In practice it is difficult for a foreign broadcasting organisation to get a provision concession for public broadcasting. The public broadcasting organisation must have at least 60 000 members for getting a provisional concession. This requirement does not exist for commercial broadcasting organisations.

**13. Are there any regulations restricting cross media ownership (e.g. broadcast television, radio, newspapers) for infrastructure and services in the same geographical market. Yes/No**

Yes, the public broadcasting organisations may not have any cross media ownership. The commercial broadcasting organisation, or one or more of the legal entities or companies with which it forms a group, jointly or individually may not have a share of 25% or more on the market for daily newspapers. The organisation gets no permission if a legal entity, or more of the legal entities or companies with which it forms a group, whether or not pursuant to an agreement with other holders of voting rights, are jointly or individually in a position:

- to exercise more than one third of the voting rights in the general meeting of shareholders of the broadcasting organisation
- to appoint or dismiss more than one third of the broadcasting organisation or supervisory board members.

**14. What kind of methods are adopted by regulatory authorities in order to measure market shares in broadcasting market? If the measure used is 'audience rates', please describe the methodology used.**

Market share of daily newspapers for the above mentioned cross ownership regulation. For the allocation of FM-frequencies to commercial radio stations there are regulations that not more than one frequency of package of frequencies may be used by a station (or its associates). Kinds of associations are described in regulation. Market share is not used.

### **Convergence (Questions 15-18)**

**15. Under the communications regulation existing in your country how would services provided over the Internet, which some have linked to broadcasting services (e.g. audio and video services transmitted over the Internet) be defined and treated?**

The provision of the data transport necessary for Internet services is regarded as a telecommunication service. Furthermore the distribution of audio and/or video services over the Internet is not regarded as broadcasting but merely as a telecommunication service.

**16. Would a video on demand service be treated differently in terms of regulations, by the transmission methods (for example, PSTN, cable or satellite)?**

Video on demand is regarded as a telecommunication service and not as a broadcasting service. Consequently (only) the regime of the Telecommunications Act is applicable for this service. The Telecommunications Act does not make a distinction according to the transmission method used.

**17. Under the communication regulation existing in your country how would conditional access services, such as in digital DBS services, be treated?**

In the new Telecommunications Act it is stipulated that the provider of a conditional access system that is suitable and intended for the broadcasting of services which can be received with the aid of digital television systems shall make available to the providers of those services under fair, reasonable and non-discriminatory conditions such technical facilities that the services concerned can be received by those who have concluded an agreement for that propose with the provider of the conditional access system. Digital DBS, irrespective of whether conditional access is used, is regarded as broadcasting, because of the fact that simultaneously the same "message" is being sent to subscribers (the users that have the special access). The Media Act requires for all commercial broadcasting permission by the Commissariaat voor de Media

**18. Please detail plans for digital broadcasting and cable television services.**

	Number of Licences to be granted	Expected Number of New Channel Capacity	Expected Date of Service Commencement
Terrestrial TV service			
Terrestrial Radio service			
Direct Broadcast Satellite service			
Cable Television service			
Additional information and comments	Number of licenses is not yet fixed. Policy on this issue is at a preparatory stage.		