

<b>Contact person</b>	<b>Our ref.</b>	<b>Your ref.</b>	<b>Direct line</b>
<b>Date</b>	<b>Subject</b>		<b>Appendix</b>
	SMP market survey		Questionnaire

Dear Mr Beerepoot,

Under the Telecommunications Act (hereinafter "TA"), the Commission of the Independent Post and Telecommunication Authority (hereinafter "the Commission") has the authority to designate a telecommunications operator as an operator with significant market power (hereinafter "SMP"). The main criterion for such a designation is a minimum market share of 25% in terms of turnover.<sup>1</sup> In short, as a result of such a designation, a number of extra statutory obligations are imposed on the SMP operator - for example, in relation to special access and cost-orientation - so that other, often much smaller or newer operators, are given the opportunity to attain a better competitive position in the telecommunications market. The importance of SMP is therefore considerable, not only for the development of the telecommunication market as a whole, but certainly also for the position of individual companies.

At this point in time, KPN Mobile The Netherlands B.V. and Libertel N.V. have been designated for mobile telephony, and Royal KPN N.V. has been designated in the market for fixed public telephony and for leased lines. Based on the Guidelines for designation of significant market power,<sup>2</sup> the Commission annually reviews whether or not the designation of an operator as a party with SMP should continue. By carrying out a market survey this year, the Commission will further determine whether or not the existing designation for mobile telephony, fixed telephony, and for leased lines should remain in force, and whether or not other operators should be designated. Furthermore, the Commission will decide whether or not there are operators who, together, have SMP in the national market for fixed and mobile public telephone services (article 6.4, paragraph 2, TA), and as such should be designated.

The Commission has decided to take a combined approach to the SMP designation for the mobile, fixed, leased lines, and fixed & mobile segments. In this way, an attempt is being made to reduce the burden as far as possible for your company insofar as it is active in the various market segments. In this way, the survey into SMP fixed & mobile will also make use of data provided in the answers to the questionnaire concerning SMP Mobile and SMP fixed.

In respect of the market survey referred to, please find attached the questionnaire concerning the market in which your company is active. As part of the market survey, we would ask you to kindly provide answers to these questions. Please return the questionnaire no later than **31 May 2001**. It should be noted that you are legally obliged to provide the Commission with this information. For the sake of ease and speed, we recommend that you download the questionnaire concerned from our website ([www.opta.nl](http://www.opta.nl) => thema's 'aanmerkelijke marktmacht' => section 'achtergrondinformatie') and once filled in, return it to the Commission by e-mail (L.Korsten@opta.nl).

We would ask you to support your answers as much as possible with publicly available information, such as annual reports and annual accounts. If you are not able to provide the requested information, we would ask you to give reasons for not being able to do so. Furthermore, when answering the questions we would ask you, for each section of information, to give reasons explaining which information should be considered as confidential. If there is cause for such, the Commission may request you to provide an accountant's declaration concerning the accuracy and completeness of the financial information provided.

In order to carry out the market survey, the Commission is using the services of the research bureau EIM - Onderzoek voor Bedrijf & Beleid, in Zoetermeer. Because of the confidential nature of the information to be supplied by your company, the Commission has contractually obliged EIM to maintain confidentiality concerning this information, as well as all other information which they know to be confidential, or have reasonable cause to consider such as confidential. In its survey, EIM can also make use of the information available at OPTA concerning previous SMP designations, within the terms of identical agreements concerning the confidentiality of such.

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<sup>1</sup> For more detailed information, see article 6.4 of the Telecommunications Act.

<sup>2</sup> Guidelines for designation of significant market power, Official Gazette, 8 March 2000, no. 48.

Further procedure

A member of EIM staff will contact you in the near future about how the completion of the questionnaire is progressing. Based on the information provided by you, the Commission will, with the support of EIM, determine the market share of the given parties and apply the criteria of article 6.4, paragraph 4, TA. The Commission will then make a decision about which operators will be designated. The Commission will notify your company of this decision no later than September 2001.

If you have any questions or comments about the questionnaire or the procedure, please contact the following people within OPTA:

General (market research) and mobile telephony: Mr L. Korsten, tel. 070-315 3529, (L.Korsten@opta.nl);

Fixed telephony and leased lines: Mrs W. Münzebrock, tel 070-315 3540, (W.Munzebrock@opta.nl);

Fixed & mobile: Mr F. van Dal, tel. 070-315 9285, (F.Vandal@opta.nl).

Yours faithfully,