

focus on 2009





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In *Focus on 2009* OPTA is publishing today what it will be doing tomorrow to ensure that competition occurs in the communications markets and that consumers are protected. This *Focus* represents a follow-up to *Vision 2008*. In 2006 OPTA published a long-term outlook called *Vision 2007* which was followed by a sequel the next year called *Vision 2008*. The future scenarios outlined in them still serve as the basis for OPTA's intervention in the electronic communications and postal markets. It is for this reason that OPTA is not publishing an outlook this year but rather this *Focus* to indicate what aspects it will be focusing on as part of its regulatory work in 2009. These matters are not only relevant to the market parties that are directly subject to regulation by OPTA but also to the Dutch business sector and consumers. An overview of all of the activities which OPTA will be undertaking in 2009 may be found in the organisation's budget for that year. For two years now OPTA has been performing identical duties with ever diminishing funds. In addition, it has acquired new duties. By far the bulk of OPTA's funding is sourced from those market parties which are subject to regulation by it. The organisation's budget may be found on the OPTA website at www.opta.nl.

focus on 2009

A world without telephones, the internet, post and television is inconceivable. ICT is an important engine driving the Dutch economy. It is therefore important that adequate innovation and investment occurs and that there is healthy competition. Communications markets in which consumers are protected against abuse and informed decisions can be made. Healthy competition means that companies abide by the rules which are designed to tackle the misuse of a position of economic power. This can produce a level playing field for all businesses.

In the course of its regulatory work OPTA is increasingly focusing on [prevention](#), so as to avoid any impairment of the market, which consumers would ultimately pay for in the form of high (or excessively high) prices and little choice. OPTA encourages innovation and investment by intervening only where it is strictly necessary to do so and where it may offer certainty in relation to investments. For instance, with regard to the regulation of [fiber networks](#) OPTA seeks to find a balance between the least possible intervention and the prevention of a new monopoly.

Whereas consumers now enjoy an extensive choice of a variety of telecommunications and internet service providers charging competitive prices, the situation is still unsatisfactory in the case of business customers. OPTA is adopting tougher measures in the [business market](#) to promote competition within it. In order to ensure that there is greater choice of suppliers of triple play packages OPTA is providing access for new entrants to the [television cable](#). Mobile phone call tariffs have halved in the Netherlands during the past five years thanks to competition. This does not apply to the charges levied for calls within Europe. In 2009 the European Commission will again be setting lower tariffs for [mobile phone calls in Europe](#) and OPTA will ensure that Dutch mobile phone service companies abide by them.

Telephones can be a source of irritation, for example, if they are used for [telemarketing](#) calls even though consumers have registered not to receive any, or if consumers are placed in a queue for an unnecessarily long period of time. In addition, telephones can be misused for the purposes of fraud committed with the aid of [paid information numbers](#). OPTA will be devoting special attention to these problems in 2009. Given the extent to which the Dutch conduct business in electronic form, it is essential that there be confidence in the internet. Spam and spyware undermine such confidence. To complement the current prohibition of spam the transmission of spam to businesses will also be prohibited. In addition, OPTA will be reminding internet service providers of their responsibility to supply information regarding internet safety to consumers. In this way it will be possible for consumers, the business sector and OPTA to assume joint responsibility for [internet safety](#).

This *Focus on 2009* sets out what OPTA will be doing in concrete terms within these areas requiring attention in order to ensure that there is competition and confidence within the communications sector in the interests of consumers.



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preventing contraventions

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The Telecommunications Act [*Telecommunicatiewet*] and the Postal Act [*Postwet*] are designed to safeguard and protect consumer interests. Market parties are required to comply with this legislation and the relevant regulations. Preventing businesses from contravening the law also ensures that other parties and consumers are not harmed. The unlawful acquisition of customers, for example, by illegally providing them with a discount, may lead to a loss of earnings on the part of competitors and a reduction of competition. This may have an adverse effect on the position of customers and consumers.

**KPN is
the first market
party to agree on
a compliance
charter with OPTA**

The issues

Wherever possible OPTA provides information through its regulatory work in an effort to ensure that market parties adopt preventive measures. Market parties may approach OPTA for information concerning the interpretation of their legal obligations. In this respect OPTA helps market parties to assume responsibility for complying with the law (compliance assistance). In addition, businesses are required to structure their organisation in such a way that the rules and procedures within it will ensure their compliance with the relevant regulations. Compliance would then occur naturally. In some cases a company may do this in the form of a compliance programme. By providing guidance in this respect by means of a charter or information OPTA is able to boost the effectiveness of its regulatory work. At the beginning of 2008 KPN became the first market party to agree on a compliance charter with OPTA. This is due to the fact that KPN is the largest market party and, viewed in historical terms, the one which has been subject to regulation by OPTA the longest. By means of this compliance charter OPTA and KPN reached an agreement under the terms of which the latter will adopt concrete measures to live up to its responsibility to comply with the Telecommunications Act.

What is OPTA doing today to prevent contraventions tomorrow?

The compliance charter sets out the basic elements of an effective compliance organisation, which OPTA deems to be the minimum required of a market party such as KPN. These basic elements are expressed in the form of measurable performance indicators which are the subject of KPN reports to OPTA.

These reports provide OPTA with an understanding of the operation and the effectiveness of KPN's compliance programme. This will be followed in 2009 by OPTA's first report of its findings in relation to the structure and operation of KPN's compliance programme. It is envisaged that reports dealing with the performance indicators covered by KPN's compliance programme will be presented on an annual basis. These reports will provide market parties and other stakeholders with an idea of the manner in which OPTA deals with KPN's compliance charter.



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encouraging investment in fiber networks

Information can be transmitted through fiber optic cable at the speed of light, which is much faster than by ADSL or cable. Not only does this mean that downloading is exceptionally fast but also that images are sharply defined and sound is crystal clear. Not only do Dutch consumers appreciate this, so too does the business sector. It is for this reason that it is very important for many Dutch citizens to have a fiber connection along with an adequate choice of providers and an appealing array of services at a competitive price.

more than
100.000 homes in
the Netherlands
are connected to
a fiber network

The issues

Traditional networks, such as telephone and cable, have a limited capacity. Fiber networks offers a good deal more bandwidth. This makes it possible to provide all services through it as part of a single bundle. In recent years new parties have opted to establish fiber optic networks, such as building companies, municipalities and housing cooperatives. Many of these investors employ an open model: service providers may compete with each other in the network. The extent to which OPTA intervenes depends directly on the extent to which this model is open. The roll-out of fiber networks is reaching a stage in which it is no longer possible to do it independently on a large scale without KPN being involved. KPN is also establishing fiber networks in the Netherlands. On the one hand, the establishment of fiber networks involves a great deal of risks and demands substantial investments. On the other hand, there is a risk that a monopoly will be established or re-established if a party holding market power starts to focus on it. OPTA wants to encourage KPN and other parties to invest in fiber networks while simultaneously preventing a new monopoly from developing. It therefore remains necessary for other parties to have access to KPN's new network.

What is OPTA doing today to encourage investments in the fiber optic networks of tomorrow?

The construction of fiber networks demands significant investments, which are depreciated over a long period of time. OPTA has decided that access to fiber networks is necessary in order to ensure ongoing competition in the electronic communications sector. Investors in fiber networks and new entrants require long-term certainty and demand a clearer idea of OPTA's potential intervention once the regulatory period of three years ends. Uncertainty about obligations in relation to entry or the relevant tariffs can contribute to investment uncertainty. OPTA has drawn up policy rules governing the principles which constitute the basis for the duty to grant access to the new fiber networks and the manner in which OPTA will set the tariffs for this. In 2009 OPTA will closely monitor these conditions to determine whether they are effective. By incorporating a reasonable return on KPN's investment in the tariffs for such access OPTA is encouraging investments in the fiber networks and competition in relation to them. Ultimately, Dutch citizens and the business sector will benefit from this.



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more competition in the business market

In 2008 OPTA examined the state of competition prevailing in the electronic communications markets. OPTA will be able to abandon regulation, as soon as competition takes over the regulator's duties. Wherever competition is still inadequate, OPTA will be adopting additional measures. Although the consumer market is becoming competitive at a growing rate and specific rules can be abandoned, this is not yet the case in the business market. KPN still has a very strong position in it and it is for this reason that OPTA needs to intervene more extensively.

**750.000 companies
will have greater
choice due to
tightened obligations
on the wholesale
markets**

The issues

Business users still depend on KPN's network for national coverage of their telephone and data services. In the past three years there has been no change in KPN's large share of this market, which is about 70% to 80%. Alternative providers depend on KPN's network, if they are to be able to compete in this market. Consequently, OPTA ensures that these providers can compete with KPN to acquire business customers subject to similar terms and conditions. As such, business users are also benefiting from competition in the form of lower tariffs or better service.

What is OPTA doing today to boost competition in the business market of tomorrow?

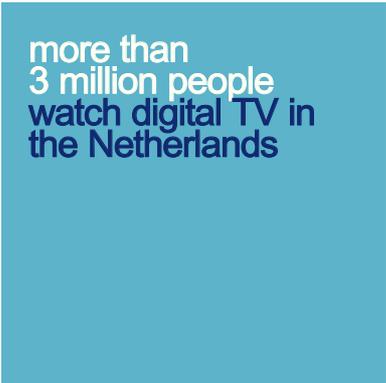
In 2008 OPTA tightened the obligations imposed on KPN in the wholesale markets for telephone and data services. In these markets other providers purchase telephone and data services from KPN and can then compete with it in both the consumer and business markets. Thanks to these stricter obligations KPN's competitors are able to use its network based on tariffs set by OPTA. The latter will be determining the specific tariffs and conditions for this purpose in 2009. In addition, KPN will also have a duty to resell telephone connections which are capable of considerable bandwidth, so-called high-capacity connections. OPTA will consult KPN and alternative providers to examine how this could become a commercially appealing offer to all of the relevant parties, and will make a formal decision in this respect. Ensuring that wholesale market obligations are stricter in 2009 will enable KPN and the telecommunications companies to compete extensively with each other in the retail markets. This will make it possible for OPTA to cancel the obligations which it has imposed on KPN in the retail markets. However, it means that OPTA will closely examine whether KPN complies with its obligations in the wholesale markets, for example, by actively monitoring whether KPN employs the same terms and conditions of supply with regard to itself as it does in relation to other parties. In this respect KPN may not apply different ones, which will create a level playing field for its competitors. Thanks to this package of measures alternative telecommunications companies will be able to present their business customers with attractive offers and consumers will continue to have adequate choice.



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greater choice via television cable

Most Dutch households have more than one television set. Nowadays consumers have a choice of cable, satellite, Digitenne or even internet television (IP TV) in some cases to receive television signals. Increasingly consumers are procuring television, broadband internet and telephone services in the form of a bundle: triple play. In 2008 OPTA noted that these alternatives had not yet had the effect of inducing cable service providers to lower their prices or to offer more channels for the same subscription fee. OPTA will be opening the cable market to allow other companies to offer consumers television packages possibly in combination with other digital services via cable. This will boost competition and give consumers greater choice via television cable.



more than
3 million people
watch digital TV in
the Netherlands

The issues

Alternatives to cable are subject to limitations. Dish antennas may not be erected everywhere, Digitenne has a limited number of channels and IP TV makes such great demands on internet connections that the quality can be disappointing. Although a growing number of consumers watch digital television, usually this occurs in combination with the analogue variety and not as a replacement for it. An analogue subscription makes it possible to watch television on other sets in the same house. For dozens of years now cable companies have provided television viewers with services in the form of analogue packages and all of them are potential customers for digital television. Other television service providers do not enjoy this advantage, with the result that there is a real risk that cable service providers may be able to extend their current position in the television market to include digital television.

What is OPTA doing today to create greater choice on television cable tomorrow?

OPTA has imposed a duty on the two largest cable companies, UPC and Ziggo, to sell their current analogue connections to other providers in administrative terms.* These parties may then in turn offer consumers such a connection along with a television package. So as not to put a brake on investments in its own network, KPN may not avail itself of this duty. These measures will enable other television service providers to offer analogue television through the networks of these cable service providers. In addition, they will be able to provide their own digital services through a cable network. In 2009 OPTA will be implementing an offer made by UPC and Ziggo in consultation with these cable operators and any new entrants. This offer contains all of the technical and administrative measures which are required to grant other providers access to cable, such as arrangements concerning customers, delivery times, conditions governing cancellation, and the use of each other's decoders. OPTA will ensure that it becomes as easy for consumers to switch as possible. In addition, OPTA will also be setting the tariffs for reselling connections and transmitting television signals. If other television service providers avail themselves of this opportunity, consumers will have a choice via cable in the future.

* At the time this *Focus on 2009* was written, OPTA's decision on access to cable was still subject to responses from the relevant market parties and the consent of the European Commission.



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reasonable tariffs for calls in Europe

Consumers pay higher fees for using a mobile phone in the rest of Europe than in their own country. When taking out a new mobile phone subscription consumers focus chiefly on national telephone and SMS charges and pay less attention to the tariffs applicable in the case of cross-border calls. Consequently, there is no incentive for mobile phone service providers to compete with each other in relation to European tariffs, with the result that some providers charge relatively high rates.

tariffs for calling
with a mobile phone
in Europe is about
30% lower thanks
to roaming regulation,
being called is even
40% cheaper

The issues

Because the problem of excessively high call charges in Europe cannot be tackled by a national regulator, OPTA and Heemskerk, the State Secretary for Economic Affairs had urged the European Commission in 2007 to intervene in relation to mobile phone call charges in Europe. In 2008 the tariffs for mobile phone calls in Europe were set at EUR 0.58 per minute and EUR 0.29 to receive calls. OPTA and Heemskerk had also recommended similar intervention (in relation to tariffs) for SMS messages sent within Europe. In addition, acting as part of the European regulatory authorities united within the European Regulators Group, OPTA has also drawn the attention of the European Commission to the fact that mobile phone calls in Europe are usually rounded off to the nearest minute, with the result that consumers pay more than what their calls actually cost.

What is OPTA doing today to ensure that tariffs for calls in Europe are reasonable tomorrow?

OPTA and the other European regulators are collecting information for the European Commission concerning the tariffs which mobile phone operators charge, so as to obtain some idea of the implications which such intervention would have for the entire European market. The tariffs will be reduced again on 30 August 2009. OPTA will ensure that mobile phone operators active in the Netherlands reduce their rates appropriately and on time. If they fail to do so, OPTA may take action, for example, by imposing fines. In addition, OPTA will be monitoring whether mobile phone service providers properly inform consumers about the costs involved in using their mobile phone in Europe. If a consumer crosses a border, he should receive an SMS message stating the relevant tariffs applicable for mobile phone calls and referring him to freely available information concerning the charges for mobile phone internet access and SMS messages in that country. In addition, OPTA provides information to consumers through ConsuWijzer to ensure that they are aware of what they need to consider when taking out a mobile phone subscription (either a new one or renewing an existing one), and tips to avoid large bills for using a mobile phone in another country. This will ensure that consumers are not shocked when they receive their mobile phone account upon their return home.



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reducing irritation caused by unwelcome telemarketing calls

Telemarketing is a method which businesses and organisations frequently use to sell products or services. Businesses use telemarketing because it is a relatively successful way of making sales or providing information. However, telemarketing is also a source of irritation. A large group of consumers does not appreciate receiving unsolicited phone calls. A telephone preference register will therefore be established for those consumers who no longer wish to receive such calls. This will ensure that telemarketing becomes a more effective tool, because businesses and organisations will then only be calling those consumers who are actually interested in receiving offers by telephone.

**about 90 million
telemarketing calls
are made each year,
this is an average of
16,7 calls per Dutch
citizen**

The issues

Some consumers are irritated, if they receive unsolicited calls from businesses and organisations that wish to sell them something. The more frequently this occurs, the greater the irritation, particularly after consumers have indicated that they no longer wish to receive such calls. In the course of a call telemarketing call centre staff are required to actively draw a consumer's attention to the possibility of registering not to receive such calls, their so-called "right to object". As of July 2009 any company which intends to sell anything by phone, will be required to check whether the consumers concerned have registered with the telephone preference service. This means that if a call centre assistant speaks to a consumer on the phone who exercises his right to object, he will be required to include the details of that person in the register immediately.

What is OPTA doing today to reduce unwelcome telemarketing calls tomorrow?

In 2009 OPTA will be educating consumers and businesses about the rules governing telemarketing and the new telephone preference register. In addition, OPTA will be monitoring whether these businesses remove the telephone numbers of those consumers who have registered with the telephone preference service from their own call files. In this way it will be possible to ensure that those consumers who register will no longer receive unwanted calls. Should this nevertheless occur, consumers may file a complaint through ConsuWijzer. OPTA will check whether such complaints indicate that a contravention has occurred or whether businesses are using the register. A complaint could also indicate that a consumer is not afforded the right to object during a telemarketing call. OPTA may check this, for example, by requesting the scripts which the relevant call centre staff use. OPTA may then take action against any offenders, for example, by issuing them with a warning or by imposing a conditional penalty or a fine on them. Thanks to these new measures OPTA will be able to act more effectively, with the result that the irritation occasioned by unwanted telemarketing calls will be reduced. Incidentally, telemarketing may also involve the provision of misleading, insufficient or confusing information, or the use of aggressive sales techniques. Consequently, dealing with unwelcome telemarketing will require very close collaboration with the Consumer Authority [*Consumentenautoriteit*], which has concrete powers in this respect.



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tackling the misuse of paid information services

Telephone numbers that begin with 0900 (serious information), 0906 (adult services) and 0900 (amusement) provide consumers with information by phone in return for payment. Consumers can request directory information using the telephone numbers that are part of the 18xy series. It is important that consumers know exactly what they are required to pay for these information services and that they are not placed in a queue unnecessarily. In addition, the misuse of paid services must be prevented and combated.

**in one year
over 2 million
numbers are ported
in the Netherlands,
that is one telephone
number every
4 minutes**

The issues

Consumers are sometimes astonished by the large amounts listed in their telephone bills for calling information services. This may be due, for example, to unexpectedly long queuing times, the absence of any announcement stating the maximum charge for the call concerned or any additional costs (call charges or otherwise) which are involved in making calls on a mobile phone. Not only is there a duty to explicitly state the tariff charged before such a call commences, relevant information concerning the call charges must also be announced. In addition, in the case of services using a 0900 number and charging in excess of EUR 0.15 per minute the maximum charge per call must be stated at the outset. Where a consumer is unexpectedly placed in a queue for more than 10 minutes, this may be indicative of misuse.

What is OPTA doing today to tackle the misuse of information services tomorrow?

OPTA is providing information about the new regulations to telephone and other businesses which operate an information service. In 2009 OPTA will be enforcing the maximum tariff announcement duty by active and reactive means. Amongst other things, this means that OPTA will be conducting random tests. It will also be checking whether callers are not charged more than the maximum tariff by their telephone provider. In addition, OPTA will be monitoring any potentially undesirable side-effects, such as their premature termination of a telephone call, once the maximum charge is reached. Apart from this, OPTA will also be acting through ConsuWijzer to check which companies may not be complying with the rules governing call charges. In this case a warning will be issued, or a conditional penalty or fine will be imposed. When suspecting misuse, the relevant telephone number may also be cancelled. OPTA will be conducting stricter checks of applications for paid service numbers, so as to ensure that it is more difficult for potential misusers to obtain a number. If there is any doubt about the intentions of an applicant, OPTA will seek the advice of the Ministry of Justice [*Bureau Integriteit Bevordering Openbaar Bestuur*]. OPTA may refuse to issue a number if it is recommended that it not do so. These measures will make it clear to consumers how much it costs to call a paid service, they will ensure that they are not unnecessarily placed in a queue, and they will reduce the risk of them being swindled with the aid of an 0900 number.

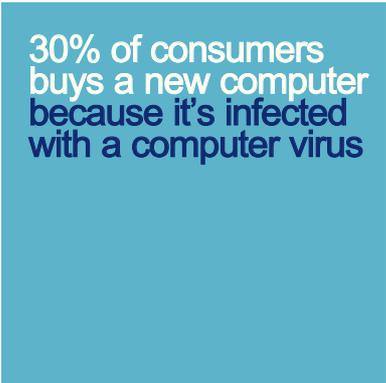


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ensuring internet safety

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Technological developments are succeeding each other at an ever increasing pace, and hence also in relation to spam and malicious software. These developments threaten to undermine confidence in the internet. In addition, providing security against electronic threats imposes considerable costs on Dutch citizens and the business sector. Internet safety is an issue which requires constant attention from OPTA.



**30% of consumers
buys a new computer
because it's infected
with a computer virus**

The issues

Spam, malware and botnets represent a growing problem on the internet and hence also for consumers. Businesses and consumers are bombarded with malware (malicious software) and spam. We have even reached the stage where it is now possible to receive spam on your mobile phone. Preventing and combating these problems increasingly requires greater technical expertise on the part of users. In addition to the need for consumers to use the internet more wisely, internet service providers also have to ensure that consumers can use the internet safely.

What is OPTA doing today to ensure safety on the internet tomorrow?

Spamming consumers is prohibited. Businesses will also be protected against spam as of July 2009. OPTA is consulting professional associations in order to ensure that businesses (marketing and otherwise) comply with this prohibition. If any complaints received through spamklacht.nl reveal that businesses are not complying with the law, OPTA will intervene. In addition to traditional forms of spam, such as those sent by e-mail and fax, in 2009 OPTA will also be considering new forms, for example, spam disseminated through social networking sites such as Hyves and LinkedIn. When it comes to spyware, this year OPTA is focusing especially on those websites which are hosted in the Netherlands and which distribute malware. In this respect OPTA is working together with the High-Tech Crime Team of the National Investigation Service [*Nationale Recherche*]. In order to tackle cyber crime it is not enough to take punitive action after the fact. It is necessary for businesses to adopt measures beforehand to ensure that offenders are not given a chance. OPTA wants communications services to be properly secured and demands an active contribution from internet service providers towards raising the awareness of consumers about the risks posed by the internet. OPTA expects internet service providers to warn their subscribers, if a spam or spyware attack occurs, and to ensure that their networks are secure. OPTA also urges ISPs to track down any computers that are hacked and misused – so-called zombie computers – and to remove them from their networks. In addition, OPTA is examining what concrete action ISPs can take in order to make the internet safer. After all, if the lack of safety on the internet is to be tackled, it is necessary that consumers, providers and OPTA all accept their responsibility.



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OPTA's regulatory work

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OPTA studies the electronic communications markets and determines where prior intervention is required in order to promote competition. This is necessary as long as a party holding significant market power is active in the market. Where competition has taken over the regulatory authority's duties, intervention may be reduced. Regulation continues to involve tailored work due to trends such as consolidation, the merging of businesses and convergence, the merging of various technologies. In addition, OPTA protects the interests of consumers and business users by ensuring that they are aware of their rights, by taking punitive action against misuse on the part of businesses and by making the internet safer. If users have confidence in the communications markets, this will increase the demand for communications services. Finally, OPTA ensures that the basic conditions exist for communications markets to operate properly, for example, by ensuring that there are enough telephone numbers. And OPTA regulates the postal market. All of this is provided for by enforcing the legislation and regulations governing OPTA's work.

Legislation and regulations

In 2009 OPTA will receive a number of additional duties related to tackling unwanted telemarketing, the tacit renewal of contracts, and the distribution of spam to businesses. OPTA is at the starting post of the comprehensive deregulation of the Dutch postal market, which will occur as soon as the Ministry of Economic Affairs has made a decision in this respect. Amongst other things, OPTA will then be given the task of determining the tariffs for the universal postal service, of adjudicating disputes between postal companies, and of conducting research into the operation of the national postal market. Should this research constitute grounds for doing so, OPTA will present the Ministry with recommendations relating to the application of the new legislation.

Until that time OPTA will implement the current Postal Act and, in doing so, will closely monitor the situation to ensure proper compliance with the currently applicable regulations. Dutch legislation and regulations are based on European directives. At the end of 2008 the European Council of Ministers agreed on a new range of directives covering electronic communications. A new European postal directive was already promulgated at the beginning of this year and needs to be implemented in Dutch legislation by no later than 2010. OPTA will be presenting recommendations to the Ministry of Economic Affairs concerning the effective implementation of these new regulations.

Regulatory style

Preventing offences is better than taking subsequent punitive action. After all, other businesses or consumers will have been harmed by then. It is for this reason that OPTA focuses on prevention, for example, by providing proper information about new legislation and regulations, thereby reducing the chance of unintended contraventions or of late implementation. This will increase the chance of market parties complying with the law spontaneously. OPTA has also amended its policy on fines, so as to encourage businesses to avoid contraventions.

OPTA regulates the market, doing so where possible together with the market, for example, by consulting market parties about the way in which it is thinking of enforcing the relevant regulations, by seeking solutions which enjoy the market's support, and through self or co-regulation. A solution that is formulated together

with the market may be more effective than any measure which OPTA can secure by avoiding litigation which has the potential to drag on. This can provide greater certainty with regard to the law and investments. OPTA exercises care in an effort to involve all relevant parties appropriately in finding a solution which enjoys the market's support.

OPTA's actions are proportionate, that is to say, it intervenes in a targeted manner where possible, for example, based on complaints received from consumers through the ConsuWijzer information portal. In this case OPTA tackles the relevant businesses where the problems occur, thereby ensuring that it does not unnecessarily inconvenience those companies which comply with the law. OPTA is capable of taking targeted action against spam based on complaints which are received through the spamklacht.nl website. In addition, OPTA uses information sourced from internet forums for consumers, interest groups such as the Consumentenbond [Consumer Association], and tips from other businesses and regulatory authorities.

Behind the scenes

OPTA is constantly improving the services which it provides to consumers and businesses. A regulator should respond within the period of time it undertakes to do so, and perform good quality work not only with regard to making timely decisions or issuing telephone numbers to businesses but also in relation to providing answers to consumers through ConsuWijzer. In addition to this ongoing internal motivation towards improvement, OPTA is also the subject of an external evaluation every four years. This is set out in the OPTA-enabling legislation. OPTA will be acting on any points for improvement which emerge from the 2009 evaluation.

OPTA monitors the electronic communications markets with the aid of its structural market monitor. This tool is being constantly upgraded to boost the effectiveness of the information which it obtains and to facilitate the supply of data to businesses.

Collaboration

Convergence has the effect of promoting greater cooperation between regulatory authorities which previously had their own separate duties. In view of the fact that content represents a competitive factor of growing importance to broadband internet services such as IP TV, in 2008 OPTA agreed on a collaboration protocol with the Dutch Media Authority [*Commissariaat voor de Media*]. In 2009 the Radiocommunications Authority of the Netherlands [*Agentschap Telecom*] (AT) will be issuing new frequencies, which are suitable for wireless internet, radio and television services. This issue will have an effect on competition within these markets. OPTA and AT have agreed on a collaboration protocol to ensure optimum coordination of their economic and technical regulatory work.

Several regulators are active in relation to businesses and consumers in the communications sector. For instance OPTA works together with the Consumer Authority (CA) in connection with unfair commercial practices, general terms and conditions, SMS spam and misleading advertising. OPTA advises the Netherlands Competition Authority [*Nederlandse Mededingingsautoriteit*] (NMa) for the purposes of assessing mergers involving telecommunications companies. Conversely, NMa advises OPTA with regard to its research into market power. OPTA, CA and NMa jointly manage the consumer information portal, ConsuWijzer, which provides consumers with information and advice about their rights, accepts complaints, and refers them to the appropriate body to enforce their rights. ConsuWijzer plays an important monitoring role for the three regulatory authorities, because it exposes potential offences committed by businesses.

In some cases combating spam involves fraud. In such a case OPTA calls in the police. Providers of electronic communications services need to exercise due care with the personal data of their customers. To this end OPTA works together with the Dutch Data Protection Authority [*College Bescherming Persoonsgegevens*]. Organisations such as Consumentenbond and Stichting Geschillencommissies Consumentenzaken [Consumer Affairs Dispute Resolution Committees] also safeguard consumer interests in addition to the regulatory authorities. OPTA consults these organisations on a regular basis, not only to provide them with information but also to examine how all can bolster each other's role by working together.

Europe

At the European level OPTA is working together with its fellow regulatory authorities as part of the Independent Regulators Group for the purposes of assessing each other's market analyses. As part of the European Regulators Group (ERG), in which the European Commission is represented along with its fellow regulators, OPTA is preparing recommendations for the European Commission concerning the development of the internal market. OPTA will be collaborating even more closely with other European regulatory authorities partly due to the impending amendment of the relevant European directives.

The ERG formulates a joint position on the regulation of telecommunications, from which a national regulator may only deviate, if it has sound grounds for doing so. The regulation of a new generation of communications networks, such as those utilising fiber optic technology, represents an important issue in respect of which OPTA is a pioneer within Europe. OPTA provides its fellow telecommunications regulators with advice in this respect and it is assisting with the preparation of a European position on this matter in order to further harmonisation. In addition, the regime of fixed and mobile phone call terminating charges which telecommunications operators apply in relation to each other within Europe is being reviewed with a view to establishing whether it can be revised. OPTA is also considering the advisability of reducing the tariffs which telephone companies are allowed to charge each other for transmitting calls, SMS messages and data on a different network within Europe as proposed by the European Commission.

The ERG feels that European consumers must be able to benefit from competition without encountering any obstacles. It is for this reason that matters such as tariff transparency and obstacles to switching feature prominently on the ERG's agenda. Finally, together with the Ministry of Economic Affairs OPTA acts as part of a joint working party of the ERG and the Spectrum Policy Group for the purposes of providing advice concerning the issue of new frequencies in Europe through which all mobile phone services can be provided.

Colophon

Coordination, copy and editing

OPTA

Art direction, design and realisation

Rooduijn, communicatie & design, The Hague

Photography

Hans Oostrum Fotografie

OPTA

Postal address

PO Box 90420

2509 LK The Hague

Street address

Zurichtoren

Muzenstraat 41

2511 WB The Hague

The Netherlands

Telephone: +31 (0)70 - 315 35 00

Fax: +31 (0)70 - 315 35 01

E-mail: info@opta.nl

About OPTA: www.opta.nl

For consumers: www.consuwijzer.nl

About spam: www.spamklacht.nl

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