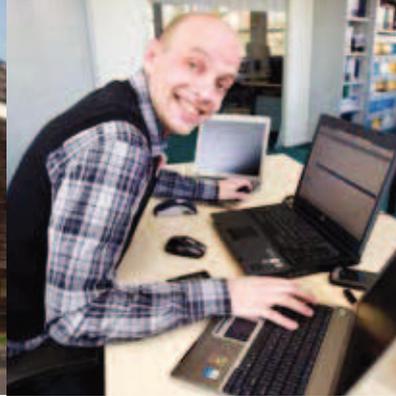
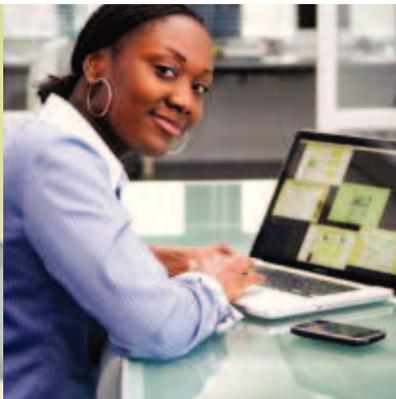


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“I do not want any trouble”

Communication tools are utility items. They need to work every time, they have to be easy to operate and, if there is anything wrong, it must be resolved immediately. The latter is particularly important. If I receive poor service, I will switch to a different provider.

Chris Fonteijn (54),
Chairman of the OPTA Commission

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Reader's guide

OPTA focuses on the world of tomorrow and looks further than today. Yet once a year in our annual report we shift our gaze. Then OPTA examines what has happened in the past year. OPTA's annual report consists of two parts: our annual report and accounts, and our market monitor. This market monitor provides an overview of the developments occurring in the electronic communication and postal markets.

In this annual report OPTA renders account for its operations and results in 2008 based on its most important work and various occurrences. These accounts are structured in accordance with the principle, from policy-based budget to policy-based accounting: what OPTA sought to achieve in 2008, what we achieved, and what OPTA did for this purpose. The annual accounts answer the question as to how much expenditure is required to perform OPTA's workload and provide an insight into the organisation's financial affairs. This publication includes abbreviated annual accounts. OPTA refers you to our website at www.opta.nl for the full version.

OPTA's domain is not always easy for an outsider to understand. However, we feel that it is important that our annual report is comprehensible. A glossary has therefore been included. You will find it in the appendix.

Annual report

OPTA's annual report comprises part of our accountability cycle, which we pursue throughout the year to keep the outside world informed of developments in the market, our view of those developments and our operations. In the autumn of 2007 OPTA published its Vision on 2008. OPTA's Vision was the subject of consultation in the market before it was published. This means that in the spring we look back on the past year (Annual Report and Market Monitor) and in the autumn we look ahead to the coming year (Vision).

Disclaimer

The documents contained in this publication have been drawn up under the terms of Section 17 of the Independent Post and Telecommunications Authority Act [Wet Onafhankelijke post- en telecommunicatie autoriteit]. No rights may be derived from the contents of this publication. This publication may contain printing or typing errors. ●

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The OPTA Commission

The OPTA Commission consists of three independent experts who are appointed by the Minister of Economic Affairs. They represent different disciplines. The chairman represents the legal entity known as OPTA. Together with two non-executive Commission members he bears final responsibility for all of the decisions which OPTA takes. OPTA's day-to-day management is entrusted to a management team consisting of the Commission chairman and two departmental heads.

In accordance with the provisions of Section 7 of the Independent Post and Telecommunications Authority Act the Commission may also appoint associate members. These are people who have a particular expertise in one or more of OPTA's regulatory domains. They may provide advice and perform their duties in close consultation with the Commission.



Chris A. Fonteijn (1955)
Commission Chairman

Chris Fonteijn read Law at the University of Leiden and performed his national service in Military Intelligence. From 1980 until he took office as OPTA Commission Chairman on 1 September 2005 he was active as a lawyer at NautaDutilh, where he had become a partner in 1988. Fonteijn specialised in business and energy law, held various positions in the course of time, and spent a number of years working for NautaDutilh in the Middle East. In his last few years with the firm he headed its Energy and Utilities Group.



Prof. Dr. Mark W. de Jong
non-executive Commission member

Mark de Jong graduated in Economics. Since 1990 he has served as a professor specialising in the services sector economy at the University of Amsterdam. He has worked for the OECD in Paris and TNO, the Dutch Institute for Applied Scientific Research, in Delft. Between 1993 and 2005 De Jong worked for KPN, his last post as a member of the KPN Mobile management board. Prior to this he was head of the Corporate Strategy and Regulatory Affairs department. Since 1 February 2006 he has been a non-executive member of the Commission and its deputy chairman. At present he is the general manager of Novay in Enschede.



Annet P. Aris
non-executive Commission member

Annet Aris graduated from the University of Wageningen, following which she obtained a Master of Business Administration (MBA) at INSEAD. She has been serving as an assistant professor of Strategy at the latter institution since 2003. There she developed the MBA module, Managing Media Companies, on which she also lectures. In addition to this, she is a regular guest lecturer at universities in Switzerland, Germany, the United Kingdom and the Netherlands, and acts as an expert for European media firms and industrial associations in Europe. From 1985 to 2003 she held various positions at McKinsey & Co. in Amsterdam, London and Munich, serving as a partner and media practice manager in Germany in recent years. She has been a non-executive member of the Commission since 15 March 2008.



Prof. Annetje T. Ottow
associate Commission member

Annetje Ottow read Law at the University of Leiden and followed this with postgraduate studies at Queen Mary College at the University of London. She completed her doctorate at the University of Amsterdam in 2006. Since August 2007 she has served as a senior lecturer in Public Economic Law at the University of Utrecht. Ottow spent more than four years working as a researcher with the Institute of Information Law at the University of Amsterdam. Between 1990 and 2006 she worked as a lawyer, from 1998 as a partner in the Market Regulation and Competition department of the firm, Houthoff Buruma, and later on as a legal consultant. She has been an associate member of the OPTA Commission since 1 April 2006. Her most important duties lie in the field of monitoring and further consolidating the legal nature of OPTA's work. ●



“constantly in contact”

As a freelancer, I'm entirely dependant on various means of communication. For my private affairs, I am constantly 'online'. If I don't have time to phone customer service, I quickly send off an e-mail. If all goes well, I also receive a reply. This is how I keep my household, work and social life up to date.

**Denice Riedewald (30),
self-employed**

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About OPTA

OPTA ensures that there is sufficient competition in the electronic communication and postal markets. It does this by studying these markets and intervening in advance where necessary. OPTA will intervene as long as there is an active party holding significant market power in a market. Where there is sufficient competition and consequently an absence of significant market power, any measures which OPTA has adopted may be phased out. Because of trends, such as consolidation (the merger of businesses) and convergence (the coalescence of technologies), markets are constantly changing and regulation therefore always remains tailored to these markets.

OPTA protects the interests of consumers and business users. This OPTA does by ensuring that they are aware of their rights, by punishing providers for any abuse on their part, and by making the Internet safer. User confidence in the communication markets promotes demand for communication services.

Finally, OPTA ensures the existence of basic conditions, such as the availability of enough new telephone numbers, which allows the communication markets to function properly, and we regulate the postal market.

All of this is set out in the legislation and regulations under the terms of which OPTA performs its regulatory duties. OPTA's mission is what guides us when performing our duties.

Mission

OPTA ensures that there is competition and confidence in the communications sector in the interests of consumers.

OPTA's regulatory work

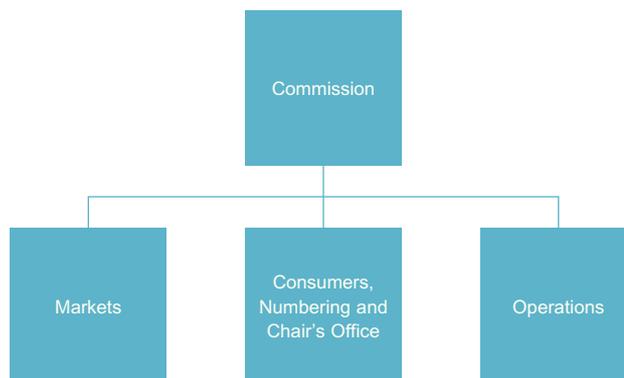
In 2008 OPTA amended its policy on fines, so as to offer businesses greater encouragement to avoid committing offences. Where possible OPTA regulates the market together with the market parties and seeks solutions which enjoy market support along with self or co-regulation. A solution which is formulated together with the market may be more effective in certain situations than any measure imposed by OPTA. In this way it may be possible to avoid drawn-out legal proceedings. This promotes certainty in relation to the law and investments. As such, OPTA endeavours to involve all relevant parties with due care and in an appropriate fashion. OPTA's actions are proportionate. This is to say that OPTA intervenes in a manner which is appropriate to the problem in question. OPTA has set out these principles in its Vision on Regulation and Enforcement, which was published in March 2008.

When doing so, OPTA amended its policy on fines, so as to offer businesses greater encouragement to avoid committing an offence. After all, avoiding an offence is better than imposing sanctions after the fact. Businesses or consumers will have suffered harm by then. This is the reason why OPTA pursues a preventive policy, for example, by providing proper information about new legislation and regulations. This may reduce the chance of any inadvertent contravention or late implementation. Then there is a better chance that market parties will comply with the law spontaneously.

Framework

OPTA is an independent administrative body (IAB), which enforces legislation and regulations enacted by the legislature. This refers to the Telecommunications Act [Telecommunicatiewet], the Postal Act [Postwet] and relevant European and subordinate regulations. Political responsibility for OPTA is vested in the Minister of Economic Affairs, although OPTA is independent and makes its own decisions irrespective of any political or business interests. The Minister may issue general directives but may not intervene in individual cases.

Organisational chart



Compliance charter with KPN

OPTA and KPN signed a compliance charter on 24 April 2008. This charter sets out arrangements made by the regulatory authority and the market party, which enables KPN to express its own responsibility to comply with the Telecommunications Act in concrete terms. By facilitating compliance it is possible to limit contraventions and to prevent the market and consumers from being harmed. This is in the interests of effective regulation.

KPN has provided OPTA with an insight into the existence, structure and operation of its compliance programme. OPTA has seen that a great deal has been achieved in relation to compliance within KPN but that there is also much that still needs to be done. In addition, it has been agreed that KPN and OPTA will consult each other about differences in interpretation with regard to compliance with the Telecommunications Act, following which OPTA will make a decision in relation to such differences in interpretation. Where the issue of interpretation also affects the interests of other parties, OPTA will also involve them in any debate. Finally, it has been agreed that KPN will report any actual or potential contravention to OPTA of its own volition and will cease such contravention as soon as possible, so as to minimise any harm caused to its competitors or end users in this way. OPTA will take this into account, whenever it adopts any measures.

European Competitive Telecommunications Association

Telecommunications Association (ECTA), the association of alternative operators in Europe, draws up a list ranking the member states on the basis of the effectiveness with which they have implemented and enforced the telecommunications directives. The Netherlands was the runner-up in this list for the second year in a row. Such a high ranking confirms that the commitment shown by the Ministry of Economic Affairs and OPTA to promote competition in the electronic communication markets and to protect consumers is producing plenty of results. ECTA has sung the Netherlands' praises especially with regard to OPTA's proactive approach and excellent fibre optic policy, citing it as an example to other countries. ●



**“my mother
can always
contact me...”**

I chose my own mobile phone and partly also paid for it myself. Very useful. If I decide to do something nice with my friends after school, I quickly phone home. She doesn't say so, but I think my mother likes the idea of me having a mobile phone.

**Wouter (12), Tim (12) and Wessel (13),
schoolchildren**

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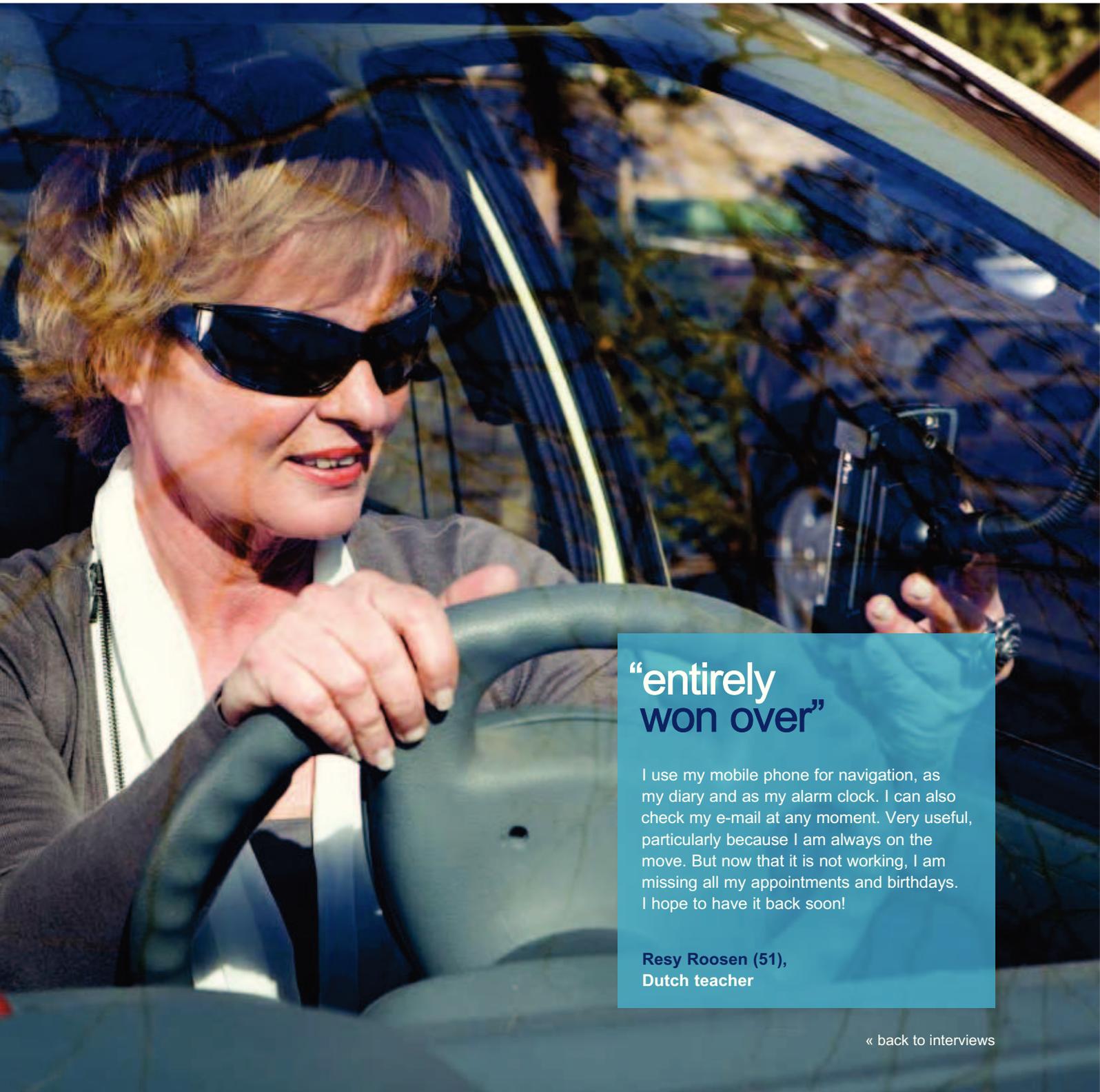
Top priorities in 2008

OPTA sets a number of top priorities each year. These top priorities are determined on the basis of indications emanating from the outside world and their importance coupled with internal consideration of them. In addition, OPTA is also naturally involved in other issues which it does not refer to as top priorities.

The management team and the Commission chairman monitor progress made in relation to these top priorities. A great deal of attention is devoted to these top priorities in OPTA's quarterly reports. They are explicitly taken into account when allocating capacity. The allocation of capacity and the time devoted to these top priorities is then also actively monitored. In this annual report OPTA reveals what action has been taken with regard to these top priorities and what it has produced. ●

OPTA cited the following top priorities for 2008:

Top Priority	Most Important Activities
Regulation and enforcement: end user interests	<ul style="list-style-type: none"> • misuse of expensive information numbers • Internet safety (spam, spyware and international collaboration) • unsolicited telemarketing • obstacles to switching
Regulation and enforcement: promotion of competition	<ul style="list-style-type: none"> • regulation of tariffs and international roaming • assessment of KPN compliance programme • regulation of compliance with the traffic light model • resolution of potential disputes concerning All IP
Post	<ul style="list-style-type: none"> • universal service tariff regulation • resolution of disputes • registration of postal service providers and a sales-related tariff system
Market analyses and monitoring	<ul style="list-style-type: none"> • the harmonisation of remedies within the IRG and ERG • new fixed and mobile phone market analyses, and the completion of broadband and broadcasting decisions • tariff regulation: the anticipated revised application of the existing system for determining price caps for a subsequent regulatory period (Wholesale Price Cap II) • structure and development of a structural monitor • monitoring the roll-out of All IP



“entirely won over”

I use my mobile phone for navigation, as my diary and as my alarm clock. I can also check my e-mail at any moment. Very useful, particularly because I am always on the move. But now that it is not working, I am missing all my appointments and birthdays. I hope to have it back soon!

**Resy Roosen (51),
Dutch teacher**

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1 Consumers

The protection of consumers represents one of OPTA's operational domains. OPTA checks to ascertain whether market parties comply with the law and takes action against any business which does not. Our primary goal is to halt any contravention promptly and to prevent any further harm from being inflicted on consumer interests, for example, by a issuing a warning or imposing a conditional penalty. Prevention – avoiding offences – also plays a major role in consumer regulation. What does consumer protection entail in concrete terms? Here are a few examples: tackling spam and unsolicited telemarketing, and the removal of obstacles for consumers, such as those inhibiting switching. The provision of information to consumers through ConsuWijzer also constitutes an important part of OPTA's protection of consumers.

The ConsuWijzer website is very important to OPTA. In its capacity as a regulator OPTA requires feedback from the market in order to obtain a clearer understanding of where problems occur and where enforcement is required. It is for this reason that we are asking visitors to this website to submit their complaints. Reports submitted through ConsuWijzer have already led to OPTA taking action in many areas. For the purposes of enforcement OPTA accords priority to those issues about which most complaints are received.

The top five reports submitted to OPTA through ConsuWijzer concern the following issues:

- 1 Sms
- 2 Slamming
- 3 Telemarketing
- 4 Spam
- 5 Number retention

1.1 Internet safety

The Internet presents the community with many new opportunities. We are also exploiting these opportunities with growing frequency. We send e-mail messages, chat and book our holidays through the Internet. Regretfully, we also have to contend with threats. Spam, malware and botnets represent a growing problem in relation to the safety of the Internet. OPTA is working hard to tackle these problems and prevent them from occurring. It is OPTA's duty to protect consumers against spam and malicious software. Apart from this, OPTA ensures that Internet service providers adopt appropriate technical and organisational measures to protect their consumers' privacy. ISPs are also required to inform their customers about the dangers of the Internet. Consider for instance the risk that a PC poses, if it is infected with a virus while connected to the Internet.

Spam

Spam again accounted for the bulk of the e-mail messages sent around the world in 2008. Researchers estimate that, as in the year before, spam accounts for

¹ <http://www.cleanport.nl/?p=NXwx&id=154>

90% of all e-mail messages that are sent. There is a light at the end of the tunnel: 2008 was the first year in which the quantity of spam received by Dutch users declined compared with the year before.¹ Apart from being a source of irritation, spam also represents a large expense item. End users and providers endeavour to protect themselves from unsolicited software with the aid of filters. Consumers may submit complaints about spam at www.spamklacht.nl. The number of complaints fell from 19,000 in 2007 to 12,000 in 2008.

OPTA fined a number of Dutch spammers in 2008. As part of an investigation into the so-called Thuiswerkcentrale a group of people and businesses were fined a total of € 510,000.00. After OPTA had issued an earlier warning further spam comprising at least 4.5 million messages was sent by or on behalf of these people and businesses. In these messages the above-mentioned company offered home-based work (or mediation to obtain such work) and anyone interested was able to reply by phoning an expensive 0900 number. Callers then queued for minutes at a time or were kept on the line for as long as possible, so as to generate the largest possible amount of call charges. Income of at least € 1.7 million was generated in this way. A sender of spam messages concerning Premium Division football news by mobile phone was fined € 10,000.00. OPTA does not only dish out fines. In 2008 nine businesses also received a warning.

Unsolicited software

A growing number of Internet users have to contend with unsolicited or malicious software. This trend also persisted in 2008. Study reports produced by security organisations, academics and ISPs reveal that this growth is explosive. An example of malicious software is spyware which searches for web surfing records, passwords and other personal details stored on consumer PCs or which uses such computers to send spam or to conduct digital

attacks. Advertising software may also be unsolicited and hence prohibited. OPTA has completed various investigations into the distribution of malware. Two Dutch citizens who distributed advertising software through MSN received substantial fines of € 16,000.00 and EUR 88,000.00. OPTA has completed a total of 74 investigations in the past year.

In 2008 OPTA initiated a collaborative project with various Internet service providers to tackle botnets more intensively. Such networks of hacked computers that are operated remotely represent a major threat to the safety of the Internet. Hackers are able to use any computer which constitutes part of a botnet to commit all sorts of cyber crime. In this respect one might consider the transmission of spam or the distribution of malware. In order to provide consumers with data protection Internet service providers and OPTA are consulting each other about measures to help consumers to clean their infected computers online. This project will continue in 2009.

Internet service providers' duty of care

Internet service providers have a legal duty to adopt technical and organisational measures to secure their services. They are also required to inform their users about the risks involved and how they can best protect themselves against them. In other words, Internet service providers have a duty to provide security and information. These two duties are referred to together as a duty of care.

In 2008 OPTA decided to consider proposals made by the market to commence self-regulation. In the course of that year OPTA noted that such self-regulation had failed to get off the ground because of a lack of support amongst the Internet service providers. OPTA is consulting the Ministry of Economic Affairs to determine whether the concrete implementation of this duty of care should not be achieved in some other way.

In September 2008 OPTA presented the market with its proposed policy rules to govern the duty to provide information. These rules clarify the criteria which OPTA would like to employ for the purposes of regulating the manner in which Internet service providers provide information to their users. The market parties' response was largely positive and OPTA managed to finalise these policy rules in the first half of January 2009. OPTA conducted a baseline study in December. It revealed that, with several exceptions, all 35 providers need to improve the way in which they provide information. OPTA will explicitly focus on the regulation of compliance with the duty to provide information in the course of 2009.

1.2 SMS code of conduct

In May 2008 a new SMS code of conduct, a self-regulatory project of market parties active in the sms sector, came into effect. This new code of conduct has been tightened in a number of important respects. For instance, consumers may now submit a complaint about their account directly to their provider. In accordance with the code of conduct providers have a duty to consider complaints and to call sms service providers to account for any conduct which contravenes the code. In addition, a Services Enforcement Committee [Commissie Handhaving Dienstverlening] has been established under the terms of the code. This committee has the power to impose sanctions on any party that acts in breach of the code. It handed down its first ruling in December 2008. Stichting SMS-gedragcode also introduced an SMS service filter in July 2008. End users can use this filter to block their mobile phone numbers from being used for sms services. In January 2009 65,000 people did this.

OPTA has welcomed the code of conduct, although its implementation is still not entirely satisfactory. Every six months OPTA will be organising an evaluation of the code

of conduct together with the industry. In this respect the Consumer Authority [Consumentenautoriteit], the Ministry of Economic Affairs, OPTA and user organisations may present proposals to ensure that the code is more effective based on the feedback that they receive. The next evaluation round will be held in the summer of 2009. In addition to self-regulation OPTA will at any rate continue to conduct its own investigations into any contravention of the law by SMS senders.

1.3 Switching to a different provider

Feedback received through ConsuWijzer reveals that consumers frequently encounter difficulties when switching from one Internet service provider to another. This was reason enough for Heemskerk, the State Secretary for Economic Affairs, to call on the market to resolve these problems. Acting of their own volition, UPC, Tele2, BBned, Online, Ziggo and KPN adopted measures together to tackle the difficulties relating to switching.

The Internet service providers adopted the following measures in 2008:

- they voluntarily sought affiliation with the Dispute Resolution Committee for Electronic Communication Services [Geschillencommissie Elektronische Communicatiediensten], so as to ensure that consumers are afforded an opportunity to resolve any dispute with their provider with as few obstacles as possible;
- they provided precise information about the switching process on their websites, so as to ensure that consumers know what they need to do if they wish to switch;
- a new provider is responsible for cancelling the switching of the consumer. The new provider cancels the contract with the previous provider;
- at least 95% of switches will occur on the agreed date. In this respect consumers may not be without an Internet connection for more than 24 hours.



“I rather go on a real visit”

My sisters live in Morocco and my brother in Spain, and I have friends who live in Belgium. Unfortunately ‘just’ paying them a visit isn’t possible. I phone them regularly for a chat using a telephone card. It’s handy and much cheaper than a fixed line. But, of course, visiting them is much nicer!

**Karim Jabroun (39),
team leader**

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Together with the Ministry of Economic Affairs OPTA monitored the progress of implementing these arrangements by consulting those parties. In addition, OPTA informed consumers about the new switching model through ConsuWijzer.

1.4 Cancelling a contract

In the event that a provider amends the provisions of his contract, his customer needs to be informed of the amendment four weeks in advance. If such an amendment does not benefit a customer, the latter is entitled to cancel his contract free of charge at that point in time. This is stipulated in Section 7.2 of the Telecommunications Act.

In January 2008 the Consumers Association [Consumentenbond] reported that KPN had increased its fee for using a giro payment form without offering its customers the right to cancel. An investigation conducted by OPTA revealed that KPN had indeed contravened the provisions of Section 7.2 of the Telecommunications Act. However, when KPN made subsequent changes, it provided its customers with complete and correct information about their right to cancel their contract, with the result that consumers had the opportunity to do so. In May 2008 OPTA therefore decided to issue a warning to KPN for this offence.

The publication of this warning on the OPTA website appeared to have a preventive effect not only in relation to KPN but also other providers of electronic communication services. Since then providers have regularly sought contact with OPTA before amending the provisions of their contracts. Complaints were nevertheless received about the right to cancel through ConsuWijzer in a number of cases. In 2008 OPTA launched an investigation into the application of Section 7.2 of the

Telecommunications Act in 20 cases. In a number of these cases the relevant provider had acted in accordance with the law.

In 12 cases OPTA contacted the providers concerned by phone or in writing, because they had failed to comply with the law. These providers subsequently applied the right to cancel appropriately and provided their customers with complete and correct information about their rights. OPTA informed consumers about this through ConsuWijzer.

1.5 Unsolicited telemarketing

Any business or organisation which sells products and/or services by phone must actively ask any consumer it calls in the course of their conversation whether it may call him again in the future for the purposes of telephone sales (the right to object). If a consumer indicates that he does not appreciate receiving unsolicited telemarketing, the business concerned may no longer call him in the future. OPTA sees to it that there is compliance with this duty, so as to reduce consumer annoyance with unsolicited telemarketing and to draw the attention of businesses and organisations to the applicable rules.

In 2008 268 complaints were received about unsolicited telemarketing through ConsuWijzer, in respect of which consumers had a complaint in relation to their right to object. In response to these complaints OPTA sent 19 businesses a letter of notice explaining the regulations with which they are required to comply. In addition, OPTA asked these businesses to set out the manner in which they comply with these regulations in the course of business. Subsequently there was a significant decline in the number of complaints received about 14 of these businesses or absolutely none at all. Complaints continued to be received about five businesses through ConsuWijzer. OPTA entered into a dialogue with these businesses in

order to ascertain how they offered the right to object. In a number of instances OPTA sought additional information and details for the purposes of its regulatory work. This work will be continued in 2009.

1.6 Dispute resolution committee

If a consumer has a dispute with a provider, he may apply to a dispute resolution committee to hand down a ruling. OPTA feels that it is important for providers to affiliate to the relevant dispute resolution committee. After all, this can provide consumers with a ready opportunity to enforce their rights. It is for this reason that OPTA closely monitored compliance with the legally stipulated duty of affiliation, which applies to providers of public telephony and carrier services.

In 2008 OPTA received numerous complaints through ConsuWijzer about one provider, Abel Telecom, which had not affiliated in spite of its legal obligation to do so. Despite repeated requests made by OPTA to this organisation to affiliate to the relevant dispute resolution committee, this provider failed to comply with its legally stipulated duty to do so. As a result consumers were unable to approach the dispute resolution committee in relation to their disputes with this provider. OPTA decided to impose a conditional penalty on Abel Telecom to secure its affiliation to the dispute resolution committee. Affiliation to this dispute resolution committee occurred in August 2008.

In response to this case OPTA scrutinised all of the providers of public telephone and carrier services in 2008. This study revealed that approximately 20 telephony service providers had failed to comply with the affiliation duty. In October 2008 OPTA launched a campaign to encourage these providers to affiliate to a dispute resolution committee, resorting to compulsion where necessary. In 2008 the registration procedure commenced in the case of four of these

20 telephony service providers. Should the other providers fail to complete the registration procedure by the stipulated deadline, a conditional penalty will then be imposed. OPTA anticipates that this will eventually mean that all consumers will be able to approach the dispute resolution committee if they have a telephony-related dispute.

1.7 Universal service

The law stipulates that anyone who applies for a fixed telephone connection must receive one. KPN is the party designated by law to offer this so-called universal service (US). KPN has a duty to offer good quality and may charge a specific fee for this. The law also stipulates that anyone in the Netherlands should at least be able to opt for either of the following two types of subscriptions: Belbasis [basic calls] and Belbudget [budget calls]. KPN has an obligation to offer these types of subscription.

When the neighbourhoods of Westerdok and Vleuterweide were built in Amsterdam and Utrecht respectively, a new technology was used, namely fibre optics. These two neighbourhoods represent KPN pilot projects and involve laying fibre optic cable in the ground and not traditional copper. The residents of these so-called fibre-only neighbourhoods were able to make telephone calls through the fibre optic cables but US subscribers were unable to obtain Belbasis or Belbudget. OPTA received complaints about this from the residents of these fibre-only neighbourhoods through ConsuWijzer. In response to these complaints OPTA discussed the matter with KPN.

In order to comply with its legal obligations, KPN proposed a temporary solution. If they prefer, as of 1 December 2008 consumers in these neighbourhoods may purchase a US telephony services subscription of their choice for use on KPN's fibre optic network. In this respect KPN stated that it expected to be able to provide

a permanent solution by the end of the first quarter of 2009, which would allow telephony services to be provided over both copper and fibre optic cable. KPN is conducting negotiations with the Ministry of Economic Affairs for this purpose.

OPTA evaluated and approved KPN's proposal. What OPTA found to be particularly important was that it only involved a very small group of consumers who would not be required to pay more for this temporary US solution than they would have for a normal US telephony services subscription over copper. Moreover, this solution is only of a temporary nature and KPN will provide a permanent solution in 2009. OPTA arranged with KPN for the latter to inform the residents of the relevant neighbourhoods about the situation in their areas and the temporary solution. This has occurred.

1.8 Telephone numbers

Administration and issue of numbers

OPTA issues telephone numbers for various services and purposes. It is required to ensure the proper administration of the stocks of numbers and to give timely notice, if there is a danger of these telephone numbers being used up. Where they are used unlawfully, it acts to enforce the law.

In 2008 the number of telephone number rulings increased by approx 10% compared with the year before. Despite this increase and stricter checks conducted for the purposes of issuing various series of numbers, processing of applications within the legally stipulated time remained constant.

It is also striking to note a substantial increase in the number of applications for mobile phone numbers. Following an extensive assessment of the effective use of

numbers allocated in the past and the new ones available for application, OPTA honoured the bulk of these applications. Partly as a result of a precise assessment of future applications, OPTA does not expect these numbers to be exhausted in the years ahead.

As in previous years OPTA has drawn up a scarcity report. OPTA has come to the conclusion that it does not anticipate a scarcity of any single type of number within the next three years. There was no need to amend the regulations governing the issue of numbers with the exception of the issue and administration of 8-digit media numbers, which are dealt with in greater detail below. The scarcity report for 2008 will be published early in 2009.

Stricter checks of number applications

Those telephone services whose numbers begin with 0900 (serious information), 0906 (erotica) and 0909 (amusement) provide paid information to consumers. The latter can request telephone numbers by calling any of the 18xy series of numbers. Unfortunately, it is possible for malafide businesses to misuse these numbers by enticing consumers with splendid offers, thereby causing them to spend lengthy periods of time making calls to telephone numbers (or excessively expensive ones). In order to prevent these numbers from being misused, OPTA has been conducting stricter checks when issuing such numbers since the introduction of new legislation in 2008. OPTA has improved its application form to make it easier to assess the purposes for which an applicant intends to use a number. Stricter requirements now apply with regard to the description of the services that are to be provided with the number for which an application is made, and the tariffs which are to be charged for that number.

In order to assess the honesty of any information number applicant OPTA checks a number of issues more closely. If OPTA has any doubts about an applicant's honesty, it can request advice from Bureau Integriteit



“everywhere and always”

I send SMSs more often than I make calls. Just nice messages, not really about anything in particular. Sometimes I don't feel like a whole conversation and am not able to call. Then this is a nice way of saying what's on my mind.

Kirsten Bosman (28),
receptionist / consular employee

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Bevordering Openbaar Bestuur [Public Administration Probity Screening Agency] (BIBOB) within the Ministry of Justice. The advice provided by BIBOB cites the probability of a number – for which an application has been received – being used to conduct criminal activities. OPTA may refuse to allocate a number, if it is recommended that the relevant application be turned down. In 2008 OPTA requested advice from BIBOB on one occasion and received such a recommendation.

Consultations concerning media numbers

Media numbers are designed to be used to provide services where large numbers of calls are expected within a short space of time. Such 8-digit 0909 media numbers are frequently used in television programmes during which viewers may be asked to vote for candidates. Series of consecutive numbers are required for this purpose. In order to guarantee the availability of such series and to avoid the danger of these 8-digit 0909 media numbers becoming exhausted, OPTA consulted the market about its policy rules in 2008. As part of these rules OPTA proposed that the cooling-off period for these series of numbers be reduced to a month. This would ensure that these numbers would become available again sooner, so that they could be allocated to new applicants, thereby enabling OPTA to accommodate market requirements.

With the aid of these policy rules OPTA anticipates that it will be able to satisfy the demand for these numbers in the future.

Regulation of short information numbers

In 2007 OPTA relaxed the calling requirements for short information numbers based on past experience. The use of such information numbers needs to accord with (a) a specific number of calls, or (b) a certain number of call minutes each month.

A regulatory campaign was conducted in early 2008 based on the relaxation of the calling requirements for short information numbers in 2007. The use of these short information numbers was assessed against the relaxed calling requirements as part of this regulatory campaign. As a result of this campaign those numbers whose use failed to satisfy the calling requirements were withdrawn subject to a simultaneous allocation for a specific period of time (one year), so as to facilitate the phase-out of such numbers.

Carrier selection

A carrier selection code is required to make calls through KPN's network using a different provider. Such a code can be any of the 4-digit (16xy) or 5-digit (10xyz) numbers which OPTA issues. The 4-digit numbers are particularly scarce.

In 2008 66 of the 100 available 4-digit numbers were issued. OPTA noticed that some of the numbers that had been issued were not in use and wrote to the relevant providers in response. Four of them indicated that they would be putting their number into service soon. OPTA will be checking this early in 2009. Four of the numbers were returned to OPTA. In addition, 15 long carrier select codes were returned to OPTA, because they were not being used either.

Regulation of 112

European regulations have been drafted to provide emergency services with greater support when they provide assistance to people in need. One of these rules is that, when calls are made to 112, mobile phone service providers are required to inform the emergency services of the location of any casualties. It is OPTA's duty to see to it that mobile phone service providers include this information – which usually relates to the location of the nearest transmission mast – with any call to 112.

In 2008 OPTA maintained close contact with the Ministry of the Interior, which is responsible for the functioning of the 112 emergency centre and related services. Through letters and discussions OPTA also kept track of the work performed by the mobile phone service providers. It is anticipated that both the emergency centre and networks operated by the mobile phone service providers will be ready by the end of the first quarter of 2009. As of that time the emergency services will know in which area anyone calling 112 from a mobile phone is located.

Number retention

Number portability entails that a consumer can retain his own telephone number, if he switches from one provider to another. In 2008 policy rules were issued to facilitate the rectification of errors involving number retention. In addition, a consumer is entitled to use the number that he wishes to take with him until the final day covered by his contract. This removes a potential obstacle to switching. Based on feedback received through ConsuWijzer OPTA took action against five providers by sending them a letter containing a warning. These providers charged excessive tariffs for the retention of telephone numbers or gave the impression that number retention was not allowed. The letters containing the warnings ensured that these providers supplied the correct information about number retention on their websites. In this way consumers are able to obtain what they are entitled to.

Provision of information on new regulations governing the misuse of numbers

In 2008 powers were conferred on OPTA which are designed to ensure that consumers are provided with better protection in relation to paid information numbers. In order to notify the market of this new legislation and these new regulations OPTA actively provided information in the form of letters, by activating a telephone number which the market could call to have questions answered, and by publishing detailed information on its website.

Tackling the misuse of paid information numbers

Unexpectedly long waiting times or an information service provider who breaks a connection after lengthy queuing without providing a specific service to the consumer in question: these are two examples of the potential misuse of numbers. Since October 2008 OPTA has been able to take action against the suspected or actual misuse of an 0900 or 18xy number. OPTA may instruct a platform which is responsible for the technical connection of such a number to disconnect it temporarily with immediate effect or to suspend any payment relating to it. In addition, OPTA may cancel or suspend its allocation of such a number, or it may reject a new application from any party that has misused a number. If a consumer is harmed as a result of the misuse of an information number, OPTA may publish a notice in the Staatscourant [Government Gazette]. In this case a provider would have an obligation to refund the relevant consumer his money within two months. In two cases involving the misuse of numbers in 2008 OPTA had the numbers disconnected and in one case also arranged for payment to be suspended.

In addition to ex post enforcement, OPTA regularly consults telephony service providers and makes arrangements for tracking down and reporting the misuse of numbers, so as to ensure that it is able to intervene even more quickly.

Information number maximum tariff disclosure

Many businesses, such as insurance, energy and telecommunications companies, offer their customers telephone services. It is not acceptable for a consumer to be required to pay for a business' poor accessibility by having him wait in a queue for a long period of time. It is for this reason that the legislature has tightened the regulations governing calls to 0900 numbers. A business is required to quote a maximum call charge, if its tariff exceeds € 0.15 per minute. The law does not stipulate

what this maximum charge is. Announcing the maximum charge of a call at the outset ensures that consumers are aware of what is expected of them and it enables businesses to distinguish themselves from each other in this respect, thereby diminishing annoyance on the part of callers. OPTA checks these announcements on a monthly basis with the aid of a random test. If OPTA discovers that an offence has been committed, it will first issue a warning. Should a subsequent check reveal that a maximum tariff is still not being quoted, stricter means of enforcement will follow, such as a conditional penalty or a fine. In 2008 OPTA issued 69 warnings to information number operators who failed to comply with these regulations. In 2009 OPTA will continue to check whether 0900 number operators comply with their obligations in this respect.

Clearly stipulated tariffs for 090x numbers

Until 2008 it was not clear at the outset to most people who made prepaid calls to paid information numbers constituting part of the 090x series, what the total charge would be for such calls. However, prepaid callers did get to hear, for example, that a call would cost '€ 0.20 per minute in addition to your mobile phone charges'. Nevertheless, in practice what this amounted to was that an amount of, for example, € 1.30 per minute was always charged. Where providers charge € 1.30 per minute, they have a duty to announce this tariff. If providers do not wish to alter their announcement, they will have to change their tariffs. In this way OPTA ensures that there is greater clarity about charges that are levied, so as to make sure that consumers do not have to contend with unexpectedly large telephone bills. ●



“distances have become much smaller”

I use Skype two or three times a day. Our children can tell their father, who is in Mexico on business, about their day at length. And we have time for each other in the evening, over a glass of wine, to discuss the day's events.

**Susan van der Knaap (41),
mother of two children**

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2 Markets

The ex ante imposition of remedies on parties holding significant market power (SMP) is one of OPTA's primary tasks. Setting a cap on tariffs for the provision of services to other market parties or consumers is the most obvious example of such a 'remedy'. Every three years OPTA analyses competition in the electronic communication markets. Based on the findings of these market analyses remedies imposed on parties holding SMP are retained or revoked, or new ones are imposed.

2.1 Market analyses

For a large part 2008 was dominated by market analyses and new market analysis decisions following on from them. OPTA analysed the following markets: those for fixed telephony (retail and wholesale), broadband (unbundled access to the local loop and wholesale access), leased lines, call transit, terminating calls to fixed phones, radio transmission and broadcasting. As at 19 December 2008 market decisions had been published for all markets with the exception of those for radio transmission and broadcasting. These market decisions came into effect on 1 January 2009 and cover the regulatory period from 2009 until and including 2011. The radio transmission decision was completed in January 2009 and the broadcasting decision in March 2009. These decisions mark the establishment of a coherent regulatory framework, which will make a contribution to the further development of competition in the communication markets over the next three years. By examining all of the markets simultaneously OPTA has shown itself to be eminently capable of weighing up various interests in a balanced fashion.

OPTA depends on the co-operation of the various market parties for the purposes of conducting these market analyses. For example, without detailed information about sales, market position and barriers to entry it would be impossible for OPTA to conduct a proper analysis. Where information was not available as part of OPTA's permanent market monitor, the various market parties supplemented it by answering OPTA's questionnaire at the beginning of 2008.

Objectives

Any remedy which OPTA imposes or retains must be appropriate. The aim is to promote infrastructure competition: competition between the various networks (for example, the fibre optic, copper and cable networks). Where this is impossible, service competition is sought. Service competition affords new providers the opportunity to offer their services within existing networks. OPTA encourages innovation and investment by only intervening where it is strictly necessary to do so and by offering investment certainty where possible. The Telecommunications Act requires that OPTA presents qualitative and quantitative grounds for any remedy which it imposes.

Transparent decision-making

OPTA has devoted a great deal of attention to the transparency of its decision-making and the involvement of the market in it. In the questionnaires presented to the various market parties OPTA asked them to express their views about specific provisional points of view which it had adopted. In addition, in accordance with the law stakeholders are entitled to respond to any provisional

market analysis decisions. This is referred to as a national consultation concerning draft market decisions. This consultation occurred in the late summer of 2008. In addition to the opportunity to notify OPTA of their views in writing, these parties were also afforded an opportunity to do this in person in the course of a hearing. Apart from this, OPTA organised a meeting with the market parties on the day on which the provisional market analysis decisions were published, in which it provided an explanation of these decisions and presented them with an opportunity to ask questions.

Not only did national consultation occur in relation to the draft decisions, the latter were also presented to the European Commission in accordance with the law and fellow regulatory authorities within Europe. This European notification occurred in the fourth quarter of 2008.

Netherlands Competition Authority and the European Commission

Collaboration with the Netherlands Competition Authority [Nederlandse Mededingingsautoriteit] (NMa) and the European Commission represents an important part of the market analysis process. NMa provides advice in relation to the definition of markets and the presence of market power before any draft decisions are published. OPTA also consulted the European Commission extensively before European notification occurred, with the result that the Commission had already been informed of OPTA's ideas and plans at an early stage. The European Commission's consent is required for these decisions (with regard to the definition of markets and the analysis of dominance).

OPTA is closely involved in consultations at the European level in relation to the supervision and regulation of markets, primarily because its regulatory framework has European origins and focuses on harmonising

Europe's internal market. International collaboration is not only beneficial for the purposes of sharing knowledge and experience but also for designing feasible, effective regulatory instruments together. Acting under the auspices of the European Regulators Group (ERG) and the International Regulators Group (IRG), working parties are active in fields such as fixed telephony, international roaming, mobile phone call terminating tariffs and cost assessments. These associations produce working documents and declarations of principle which provide guidance for regulation in the individual countries in relation to market analyses, amongst other things. Such products make it easier for market parties to forecast the practical implementation of the European regulatory framework.

Decisions

The regulatory framework which was established through the market analysis decisions of 19 December 2008 are first of all characterised by the far-reaching deregulation (the reduction of pressures of regulations) of the end user markets. For example, KPN's end user services (in relation to telephony as well as leased lines) were still subject to strict tariff regulation during the previous regulatory period. Having in mind the competition which has already been established and the actual and anticipated developments in these markets, OPTA is now able to abandon regulation in them. Aspects of KPN's obligations towards other providers have been tightened to facilitate this deregulation. With the aid of wholesale remedies (with regard to unbundled access, wholesale broadband access and leased lines) those alternative providers have been able to secure different types of access to KPN's network before going on to develop their own end user services. The focus on wholesale regulation can also be seen in the broadcasting market. It has been decided that the cable networks belonging to UPC and Ziggo must become accessible to other providers.

There is a second characteristic of the regulatory framework in the form of the devotion of additional attention to the development of competition in the business sector given the lack of dynamism in it, as has been noted. Because OPTA feels it is very important that not only consumers but also business customers should benefit from competition, the collection of measures includes additional wholesale remedies, in particular, which will enable other providers to compete with KPN precisely in the business sector. In this respect those business retail obligations which were imposed on KPN in 2005 will still apply during 2009.

Finally, this regulatory framework addresses the goal of promoting infrastructure competition. As part of its regulation of wholesale access to fibre optic connections, OPTA has emphatically opted for a form of access to KPN's network which encourages other providers to make their own investments as far as possible (unbundled access). At the same time OPTA has decided against regulating wholesale broadband access (of low quality) over the same fibre optic connections. After all, such a measure would pose an obstacle to the further roll-out of services to end users by other providers.

Fixed telephony

OPTA has analysed the relevant retail and wholesale fixed telephony markets as part of its fixed telephony market analysis decision of 19 December 2008.

Wholesale

OPTA draws a distinction between a wholesale market for consumers and one for business customers. KPN has been designated as a party holding significant market power in both markets and has been assigned the duty to continue to provide carrier selection and pre-selection, and originating calls (wholesale line rental – WLR). In this respect, this WLR obligation has been extended to

include high-capacity telephone connections. A pricing remedy applies to KPN in relation to WLR.

Retail

Competition has become stronger in the consumer retail market especially in relation to cable. Many consumers have switched from traditional telephone services (PSTN) to Internet telephony (VoB services) and this has helped to strengthen the position of KPN's competitors. Because of growing competition and the above-mentioned wholesale remedies, OPTA decided to revoke the remedies in the consumer retail market on 1 January 2009.

Within the business retail market the migration to VoB has still been very limited and the cable companies hold a limited share of it. In addition, other parties have only achieved slight growth in recent years. OPTA has come to the conclusion that, although the business retail market is not competitive, a combination of stricter and more extensive wholesale regulation (the extension of the WLR remedy to include high-capacity telephone connections) and organic developments within the business retail market will promote competition sufficiently in the future. The existing retail remedies will continue to apply until 1 January 2010 and will then be revoked.

Broadband

The broadband market analysis includes two different decisions: one pertaining to unbundled access (ULL) and the other concerning wholesale broadband access (WBA). Those businesses which do not have their own full local loop to consumers' homes require building blocks from other companies, if they are to be capable of providing consumers with electronic communication services. In this respect you might consider broadband Internet access and fixed telephony services. As part of its broadband market analyses OPTA has studied two of these building blocks: the market for ULL and that for WBA.

Unbundled access

At present KPN is the only provider which offers unbundled access to its network. Various providers procure this access from KPN, including Tele2, BBned and Online. OPTA has imposed a number of remedies on KPN as part of its market analysis decision. For instance, KPN is required to provide access to its local loop network. OPTA feels that KPN must provide access not only in physical (ULL) terms to traditional copper local loops but also to fibre optic lines (which are still to be installed). This involves areas in which KPN will be rolling out fibre to the home (FtH) together with Reggefiber through a new joint venture that is still to be established. Compared with the past regulatory period this represents an extension. Far greater speeds can be achieved through FtH than copper. Subject to conditions KPN may also cease to provide services through the copper local loop in FtH areas. A non-discrimination, transparency and pricing remedy also apply with regard to physical access to both copper and fibre optic local loops in addition to an access remedy.

Wholesale broadband access

Those providers that obtain physical access to KPN's local loops may themselves use them to provide communication services to end users or WBA to wholesale customers. The WBA market consists of two separate ones: a low-quality and a high-quality WBA market. The high-quality WBA market is mainly used for the provision of data communication services to business users, and expensive Internet products. These business end users require numerous guarantees (high quality) because of mission critical applications. Consumers generally do not use these services.

During the regulatory period from 2009 to 2011 KPN will not only be required to provide high-quality WBA but also low-quality WBA. A non-discrimination and transparency remedy will also apply in both markets. In addition, high-

quality WBA is subject to a remedy to charge cost-oriented access tariffs. OPTA would prefer providers to invest in the procurement of physical access (ULL) to the fibre optic local loops of KPN and Reggefiber, so as to ensure that those providers are themselves able to provide low quality WBA. In order to encourage such investments OPTA has imposed an obligation on KPN to provide low-quality WBA to providers on fibre optic local loops.

Radio transmission

OPTA published a draft radio transmission market analysis decision in July 2008. As part of it OPTA has decided not to regulate the wholesale markets for the provision of wireless radio transmission services. OPTA is of the opinion that it is able to remedy market failings appropriately with the aid of existing regulations. The viewpoints enunciated in opposition to this draft decision have not persuaded OPTA otherwise. After the European Commission gave notice of its consent at the end of December 2008, OPTA published the decision in January 2009.

Broadcasting

The Dutch broadcasting market will not yet be competitive enough in the years ahead. This is the conclusion which may be drawn from OPTA's analysis of the broadcasting market. Despite the emergence of competitors, such as KPN (offering digital wireless services through Digitenne), Tele2 (offering IPTV via DSL) and CanalDigitaal (through satellite), cable companies such as Ziggo, UPC, Delta and CAIW still hold a position of power. One of the most important reasons for this is that the cable companies are able to offer a combination of analogue and digital television, whereas their competitors can only offer digital television. Their infrastructure is not suitable for the transmission of analogue television. It is only gradually that consumers are switching to digital television and many viewers of digital television still also view analogue television. As such, the analogue range of services contin-

ues to play a key position in the broadcasting market. While it is true that it is possible to offer a combination of analogue and digital television through fibre optic networks, it is still not certain that such a network will be rolled out on a large scale, with the result that the cable companies will at any rate continue to maintain a strong position in the years ahead.

OPTA has therefore come to the conclusion that other providers should also be able to offer a cable connection and the standard analogue plan through the cable networks operated by Ziggo and UPC. Such a service is referred to as reselling analogue connections (WLR-C). It will enable consumers to switch to a different provider for a cable subscription in the future. This remedy is similar to the obligation that KPN has had for years now, which makes it possible for other providers to offer telephone connections as well. In view of the costs involved in the implementation of such a remedy and the relatively small size of Delta and CAIW, OPTA has come to the conclusion that the imposition of a WLR-C remedy on them as well, is not a self-evident course of action at this point in time. Nevertheless, like Ziggo and UPC, Delta and CAIW must make it possible for other providers to offer digital television plans through their cable network. This set of remedies will enable other providers, such as Tele2 and YouCa, to provide a competitive range of television services, which may or may not be included as part of a plan along with telephony and Internet services via DSL, for example. It is not a self-evident course of action for KPN to obtain cable access in the same way that it is not a self-evident course of action for cable operators to use KPN's network to provide telephony services. OPTA has indicated this in its regulatory work. OPTA anticipates that WLR-C will be available at the beginning of 2010 and that the remedies will result in a greater choice of RTV plans and lower prices.

Fixed terminating calls

Where a telephone call is made over a fixed network to someone who has a different provider, the caller's provider pays a fee for the use of the network that is called. This is referred to as a fixed terminating call (FTC). There are now approximately 35 fixed telephony service providers and consequently significant market power no longer occurs in relation to this service. All of the providers enjoy a de facto monopoly on their own part of the network. The new market analysis decision regulates the tariffs for fixed terminating call services by means of a price cap which applies to all providers. This is also known as symmetric tariff regulation. The previous market analysis decision (valid for the period from 2006 to 2008) provided for a regime as part of which KPN was assigned a lower price cap than the other providers. The purpose of these asymmetric tariffs was to bolster the position of KPN's competitors and thereby promote competition in the fixed telephony retail markets. However, in recent years competition has increased to such an extent in these retail markets, that different terminating call tariffs are no longer appropriate.

Mobile terminating calls

One's own provider is also required to pay for any mobile calls which are made using another provider's network. In this case we refer to mobile terminating access (MTA) or mobile terminating calls. The MTA decision came into effect on 30 July 2007 and will apply until 2010. Market parties lodged an appeal against this decision with the Trade and Industry Appeals Tribunal [College van Beroep voor het bedrijfsleven] (CBb). In 2008 the CBb ruled on this² and decided that OPTA needed to provide further grounds for the pricing remedy which it had imposed. The price caps for Mobile terminating calls which apply until mid-2010 on the basis of this decision have not been changed.

² CBb, 23 July 2008, LJN: BD8280.



“is social networking all that wise?”

Very few people seem to concern themselves about what happens to their data after they have created, for instance, a Hyves or LinkedIn account. Where does my data end up? Who manages this data? Everyone simply throws everything into that black box and is all too trusting. This surprises me.

Frank Meijer (44), consultant

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Call transit between networks

OPTA has concluded that, although KPN still has a strong position in the call transit market, it does not hold significant market power. Call transit refers to the process of linking networks operated by different providers. In the past there used to be a market for direct interconnection services and another for indirect ones. The two types of services have since come to serve as each other's replacement, with the result that there are no longer separate markets for transit services. There is no longer a market party holding significant market power in this more widely defined market for call transit between networks. The former remedies have therefore been revoked in view of the fact that there is sufficient competition.

Leased lines

The leased line market analysis covers the market connecting business networks. These networks may be used for both telephony and data services. The market may be broken down into two, one for high and one for low-capacity connections. Thanks to its highly ramified local loop networks KPN is dominant in both markets and is the only party capable of providing full national coverage. This mainly applies to copper networks in the low-capacity leased line market and fibre optic networks in the high-capacity one. OPTA has made it mandatory for KPN to offer wholesale services to other telecommunication service providers, so as to enable them also to develop a range of retail services with national coverage based on this.

The range of wholesale services that KPN provides must be cost-oriented, although it may achieve a reasonable profit. This range of services must also be transparent and non-discriminatory, which means that KPN is required to publish its range of wholesale services and it may not favour its own retail operations over those of other telecommunication service providers.

2.2 Traffic light model

Regulating compliance with the traffic light model was one of OPTA's top priorities in 2008. This traffic light model governs regulation in relation to regulated tariffs for end users. Based on a 2005 retail decision KPN is required to assess whether a new service needs to be reported to OPTA based on any risk it may entail in relation to competition. KPN reports any new services to OPTA every fortnight and each quarter it presents the latter with its assessment of the extent to which their costs are covered. This contribution by KPN served as an important foundation for OPTA's regulatory work in 2008. Regulating compliance with the traffic light model resulted in KPN being fined EUR 1 million in 2008 for providing unlawful discounts to business users through its service, Business Voice International (BVI). In addition, OPTA investigated the service, Corporate Voice National (CVN). Because KPN had ceased to commit an offence in this case and had paid its competitors compensation, OPTA made do with a warning.

2.3 Roaming

In 2008 many consumers benefited from reduced tariffs for mobile phone calls made through foreign networks within Europe. These tariffs were partly decided on at the insistence of OPTA and mr. Heemskerk, the State Secretary for Economic Affairs. Based on the tariffs applicable at the beginning of 2007, Dutch consumers saved € 150 million in 2008.

OPTA pleads for extension

During the summer of 2008 the European Commission commenced its initial evaluation of the Roaming Regulation. Together with the other regulatory authorities comprising the European Regulators Group (ERG), OPTA provided the Commission with detailed information about the manner in which mobile phone service providers had

complied with their obligations. In addition, acting within the context of the ERG OPTA pleaded for the introduction of maximum tariffs for the use of SMS services to be imposed alongside those for mobile phone services.

The European Commission was also asked to devote attention to the fact that many mobile phone service providers charge for calls by the minute and round them up. A study conducted by the ERG has revealed that this leads to the average consumer paying 20% more for his calls, than if he were to be charged for them by the second.

New regulations

Based on the responses that it had received, in September the European Commission presented an initial proposal to amend and extend the current directive governing maximum tariffs and mobile phone service providers' obligation to provide information. Charges must be levied for calls by the second except where the caller himself initiates the call. In the latter case providers are always entitled to charge for the first 30 seconds. In addition, the Commission proposes to introduce a maximum tariff for sms messages. The Commission has proposed that the tariffs which the mobile phone service providers charge for mobile Internet access should be reduced, so as to enable them to compete more effectively with each other. In order to protect consumers against excessively high bills for mobile Internet access abroad the Commission would like to make it mandatory for the mobile phone service providers to develop systems which warn consumers.

The Commission's proposal has been approved by the European member states and, once it has been approved by the European Parliament, will have the effect of lowering the cost of calls and SMS messages within Europe in the summer of 2009.

2.4 Investments in fibre optic networks

OPTA welcomes the fibre optic transformation of KPN's local loop network, provided that access to it by the company's competitors is appropriately guaranteed. KPN's network consists of separate subsidiary networks for leased lines and telephony, data communication and Internet services. Since the end of 2005 KPN has been busy incorporating them into a single broadband IP network. KPN refers to this operation as All IP. Part of the copper local loop network is to be replaced with fibre optic cable in order to provide faster speeds. In a number of areas KPN has already started to offer services which are provided entirely through fibre optic cable to end users within their home. KPN has announced that it will be collaborating with Reggefiber for the purposes of building fibre optic networks. Following close, constructive collaboration with OPTA, on 19 December 2008 NMa gave its approval for this joint venture, although it stipulated conditions governing access to the network.

"It's happening in Holland"

Ed Richards (Chief Executive Officer of Ofcom) during a presentation in Savoy Place in London on 16 April 2008.

Policy rules

On 24 November 2008 OPTA released draft policy rules governing tariffs for access to the fibre optic networks constructed by KPN and Reggefiber. The various market parties and other stakeholders responded to them and the final version of these policy rules was published on 19 December 2008. These policy rules set out the principles underlying the policy pursued in relation to tariff regulation for unbundled access to fibre optic local loop networks. What is at issue here is the balance between promoting competition and stimulating innovation. Efficient investments in fibre optic networks are encouraged to enable the company's competitors to use this network to reach

end users based on predetermined tariffs. OPTA's policy rules will ensure that there will now be certainty with regard to access to the fibre optic network for both KPN and Reggefiber, on the one hand, and those parties that wish to use this network, on the other.

Price cap

A price cap which OPTA has set for the long-term is at the heart of these policy rules. This price cap sets a maximum tariff in return for which other parties may acquire access to the new network. It also provides long-term certainty to fibre optic technology investors. It will afford the latter adequate opportunity to achieve the return that is required for investments of this nature. In order to ensure that KPN and Reggefiber will not generate excessive earnings, OPTA will be evaluating their returns every three years. In the event that they generate excessive earnings, the tariffs charged to their competitors will be deemed to be excessive and OPTA will lower the price cap.

2.5 Post

In spite of what telephony and the Internet have to offer, the Netherlands still sends massive amounts of post. Approximately five billion postal items are delivered every year, not counting unaddressed post. Until recently TNT enjoyed a legal monopoly to deliver letters of up to 50 g. However, the Dutch postal market was fully deregulated on 1 April 2009. The full deregulation of the postal market is important, if further competition is to develop. Deregulation has the effect of reducing tariffs and offering greater choice to consumers and the business market. Full deregulation has already been achieved in many European countries. The entire European postal market is scheduled to be deregulated by no later than 31 December 2010. This is set out in the new European postal directive (2008/6/EC).

Full deregulation of the postal market

In December 2007 the State Secretary for Economic Affairs decided to postpone the full deregulation of the postal market. The postal market was not fully deregulated in 2008 but in 2009.

Acting at the request of the State Secretary for Economic Affairs, in 2008 OPTA again conducted an implementation assessment of an amended draft of ministerial regulations for the purposes of implementing the new Postal Act. OPTA had already presented an implementation assessment of an earlier version of this draft at the end of 2007. Amongst other things, these ministerial regulations set out the duties for the regulation of those tariffs which are covered by the universal service. You may find this implementation assessment at www.opta.nl.

In 2008 OPTA provided the Ministry of Economic Affairs with additional advice on those duties set out in the draft Postal Decree [Postbesluit] which related to specific aspects of implementation.

Concession and quality reports

Under the former legal framework TNT had a duty to present annual reports concerning its financial results and the earnings generated by the postal delivery services entrusted to it by law. TNT reported on the number of post offices and their geographical distribution. It also reported on the range of products it offered and letter delivery times. It was required to deliver an average of 95% of letters by the following day. OPTA assessed these financial and quality reports presented by TNT. In 2008 OPTA concluded that TNT complied with the relevant legal requirements in connection with post offices. In 2007 TNT had 2110 post offices – as it had the year before – which is above the benchmark of 2102. TNT reported that 96.3% of letters had been delivered on time. OPTA checked this figure and the manner in which this performance indicator had been

arrived at, and in 2009 it stated that TNT had complied with the relevant legal requirements. OPTA concurred with TNT's financial reports for 2006 and 2007. TNT had a duty to use an income and expenditure allocation system approved by OPTA for the purposes of preparing its financial reports. In 2008 OPTA extended its approval of this allocation system for one year.

Assessment of postal rates

TNT has a duty to present any changes in its tariffs to OPTA. The latter then assesses whether these changes are permitted based on the tariff control system set out in the relevant legislation. The pricing scope which had been defined was valid until and including 2007. Due to the postponement of the new Postal Act there was a lacuna in the regulations in 2008. When TNT presented a number of changes to its tariffs in 2008, OPTA was unable to determine whether they complied with the law. Amongst other things, the tariff changes included an increase in the prices of Christmas stamps, parcels, registered mail and foreign post, and a reduction in the tariffs applicable to letters franked with a franking machine. OPTA applied to the State Secretary for Economic Affairs to have the legislation amended. In 2008 OPTA produced an implementation assessment for the amendment of the relevant regulations. This amendment of the former regulations did not come into force because of the anticipated introduction of the new postal legislation.

Post office box dispute

Based on the legal obligations imposed on TNT the latter's competitors must be afforded the opportunity to deliver addressed postal items to TNT's post office boxes. In 2007 a dispute occurred in relation to the applicable tariffs and the conditions subject to which its competitors could obtain access to these post office boxes. While OPTA was considering this dispute, the parties reached an agreement on the relevant tariffs and conditions in 2008. OPTA was then asked to halt its consideration of the dispute.

Bulk direct mail

On 1 January 2008 TNT published a new bulk direct mail service on its website called "Partijenpost Direct Mail". OPTA ruled that through this bulk direct mail service TNT was offering, amongst other things, to transport postal items which were actually covered by the legal definition of monopoly letters but without observing the legal obligations that apply to it in relation to such letters. OPTA demanded that TNT cease offering the service and remove it from its website, or change it so that what is offered corresponds with the legal definition of printed matter. TNT amended the text on its website concerning the offer of the relevant service in accordance with OPTA's directions. ●

3 Collaboration

Convergence means that different technologies and markets grow closer towards each other. In the past there was a clear difference between the telephone and television networks, radio and other forms of data transmission. As a result of technological developments and increased network capacity different communication services can increasingly utilise the same networks. A good example of this is Voice over IP (VoIP), that is, telephone services routed through the Internet. This also includes the fact that it is now possible to watch television on the Internet.

One of the ways in which a regulator can keep pace with a changing market is to start working more closely with other parties. At both the national and international levels OPTA is involved in numerous close collaborative ventures with various organisations and regulatory authorities, such as the Ministry of Economic Affairs, the Netherlands Competition Authority, the Consumer Authority and the Data Protection Authority [College Bescherming Persoonsgegevens]. In 2008 OPTA drew up a number of new collaboration protocols and close collaboration occurred in a number of cases.

3.1 New collaboration protocols

Media Authority

In accordance with the provisions of the Media Act [Mediawet] and Media Decree [Mediabesluit] the Media Authority [Commissariaat voor de Media] regulates public and commercial broadcasting organisations. In addition to existing policy rules, OPTA and the Media Authority felt a need to make supplementary arrangements in relation

to their collaboration with each other. This has resulted in a collaboration protocol, which came into effect at the end of January 2009. Amongst other things, this protocol stipulates that OPTA and the Media Authority will assist each other for the purposes of interpreting and explaining the relevant legislation and regulations (the Media and Telecommunications Acts). The respective fields of operation of OPTA and the Media Authority overlap each other in relation to access to the cable infrastructure. OPTA approaches such access within the context of competition, while the Media Authority views it in relation to content (the various programme plans). This collaboration is designed to ensure that the economic and legal aspects which are involved are brought as closely into line with each other as possible. *epaard gaan optimaal op elkaar zijn afgestemd.*

Radiocommunications Agency

In 2008 OPTA and the Radiocommunications Agency [Agentschap Telecom] (AT) drew up a collaboration protocol. AT is responsible for obtaining and allocating frequencies, and for regulating them. The respective fields of operation of OPTA and AT overlap in a number of areas. For example, in relation to frequencies AT may ask for advice about licences which could have an impact on the market for electronic communication networks and services. In such cases OPTA's role is confined to the provision of advice concerning the scope and limitations of a licence and the rules with which it needs to comply. Another example is sharing the information contained in OPTA's register for the purposes of regulating the surveillance duty of the providers of a public service or network. In 2009



“Surinam is a lot closer”

How Internet works exactly, I don't know. But Hyves is just great! My children helped me to open an account and soon I was in contact with the rest of the world. I am now again in contact with old friends from Surinam and members of my family with whom I had lost contact.

**Sila Monpellier (55),
restaurant employee**

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the Radiocommunications Agency will be issuing new frequencies, which will be suitable for wireless Internet, radio and television services. This issue will have an impact on competition in these markets. OPTA and AT have drawn up a collaboration protocol to coordinate the economic and legal aspects of their regulatory work as closely as possible.

Market Regulation Council

In 2008 OPTA, the Dutch Healthcare Authority [Nederlandse Zorgautoriteit] (NZa), the Consumer Authority, the Netherlands Competition Authority (NMa), the Authority for the Financial Markets (AFM) and De Nederlandsche Bank [the Dutch central bank] (DNB) signed a letter of intent for the purposes of establishing a Market Regulation Council [Markttoezichthoudersberaad]. This council will constitute the basis for ongoing collaboration between the participating regulatory authorities. Its aim is to share knowledge, experience and information pertaining to market regulation more extensively and thereby boost the efficiency of regulatory work.

3.2 Collaboration to secure the Internet

Spam is an international problem. Foreign spammers are active in the Netherlands and, conversely, Dutch spammers are also active abroad. Although the Netherlands is leading the way when it comes to tackling spam, it would be an illusion to think that this problem can only be resolved by approaching it merely at the national level. It is for this reason that OPTA participates in a number of international collaborative associations. These networks ensure that there is close collaboration with spam enforcement agencies in other countries, other relevant organisations and the business sector. As a result it is easier to find solutions for cross-border cases of spam. In addition, OPTA is also a member of various national associations.

Contact Network of Spam Authorities

In May 2008 OPTA gave a presentation about combating spam to a Russian government delegation on behalf of the Contact Network of Spam Authorities (CNSA) in response to an invitation from the European Commission. In December OPTA also assisted with an international study at the request of the European Commission. For the purposes of this study the Commission used OPTA and the Netherlands as a benchmark in order to determine the commitment with which spam is tackled in the other member states.

London Action Plan

OPTA arranged a seminar for the London Action Plan (LAP), during which regulatory authorities from various European countries, the United States and Australia shared their experiences in relation to the regulation of the so-called duty of care of Internet service providers (ISPs). During the LAP's annual conference OPTA stressed the importance of close collaboration between all of the parties that play a role in relation to Internet safety. In January OPTA gave a presentation in Prague on behalf of the LAP at a conference held by FIRST, a global Forum for Incident Response and Security Teams.

European Network and Information Security Agency

In December 2008 OPTA attended a meeting organised by the European Commission concerning the future of the European Network and Information Security Agency (ENISA), whose mandate has been extended to 2012. ENISA is a European agency for network information security. OPTA contributed to it by stating that it envisaged an important role for ENISA to play with regard to promoting Internet security, especially by acquiring and sharing expertise and developing shared practices.



“between the courses”

With my chef's training and my work, I have little time to communicate by MSN. So I phone or send SMSs a lot to my friends and my boyfriend. I google for recipes. Some months I have a very high telephone bill which I have to pay myself.

**Angelina Rodrigues (19),
student**

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At the national level OPTA works together with a large number of organisations which are involved in cyber crime and the lack of security – in various forms – on the Internet. This involves the High-Tech Crime Team of the National Investigations Department, the Public Prosecutors Office, the Consumer Authority and the Data Protection Authority, amongst others. The aim is to combat forms of cyber crime, such as spam and malware, as efficiently as possible, amongst other things.

Cyber crime forum

OPTA chairs the National Cyber Crime Forum [Nationale Cybercrime-overleg], in which the regulators of various organisations consult each other about how to tackle cyber crime. The participants in this forum, which OPTA established, include regulatory authorities, such as the Consumer Authority, the Authority for the Financial Markets and organisations with criminal law duties, such as the Public Prosecutors Office and the police. Meetings were held on four occasions in 2008. The aim is to establish close contact, to improve collaboration and share information.

Una Via consultations

As of 1 January 2009 regular consultations will be held between OPTA and the Public Prosecutors Office about matters which may involve an overlap of jurisdiction. Acting in consultation with each other OPTA and the Public Prosecutors Office will decide whether criminal or administrative law is the more appropriate avenue in a specific case.

3.3 International collaboration associations

Independent Regulators Group

All European member states have a so-called national regulatory authority (NRA), which regulates electronic communication. OPTA is the Dutch one and works

together with the other NRAs in Europe. This collaboration occurs in the Independent Regulators Group (IRG). The IRG has enjoyed its own legal persona since 1 September 2008. As of 1 January 2008 its executive board has consisted of five chairpersons of the various NRAs. Chris Fonteijn, Chairman of the OPTA Commission, has been appointed to serve on the IRG's executive board. The establishment of this board has made it possible to speak to parties active at the international level and to ensure that careful preparations are made for meetings.

If the European Commission disagrees with a market analysis decision taken by an individual NRA, the IRG sets up a team of experts which provides advice to the relevant NRA. The advice provided by a team of expert colleagues has shown itself to be rather invaluable. It can be used to avoid a Commission veto. This also reveals that the role played by the IRG is becoming more important in relation to the harmonisation of the law governing telecommunications in Europe.

In 2008 the advice provided by the IRG predominantly concerned the new regulatory Telecom Framework. The European Commission hopes to reach an agreement with the European Parliament and the Council of Ministers about this in 2009.

European Regulators Group

In addition to the members of the IRG the European Regulators Group (ERG) also includes members of the European Commission. On the one hand, the ERG serves as an advisory body to the European Commission.

For instance, in 2008 the ERG advised the European Commission about the:

- terminating call tariffs which should apply in the various member states;
- way in which to regulate Next Generation networks;
- reduction of roaming tariffs.

On the other hand, the aim of the ERG is to help achieve the consistent application of the regulatory framework in all of the member states. The ERG does this by developing a common position and publishing it. In 2008 in the ERG published common positions on terminating call charges, wholesale leased lines and the geographical aspects of market analyses.

In addition, the ERG also published other documents in 2008, such as a report concerning the employment of a so-called three criteria test and one dealing with the best experience of regulating unbundled and wholesale broadband access.

3.4 Consumer Authority

OPTA works closely with the Consumer Authority. The latter is the regulatory authority which regulates compliance with the general regulations governing the protection of consumers, such as the prohibition of misleading advertising and the prohibition of unfair trading practices.

Many of the issues with which OPTA is concerned as part of its regulatory work for the purposes of protecting consumers, such as tackling unsolicited SMS messages and telephone calls, as well as other forms of spam, also involve unfair trading practices or misleading advertising. In addition, it is precisely in the domain of electronic communication that relatively many problems of this nature occur.

As such, it is useful if the two regulators are able to work together to benefit from each other's knowledge and can coordinate their regulatory work in such a way that it is not duplicated.

The regulators have also agreed on a collaboration protocol for this purpose. OPTA staff also regularly assist CA in its studies. In this way it is possible for CA, as a new regulator, to benefit from OPTA's knowledge and expe-

rience. The collaboration between the two regulatory authorities provides consumers with the most efficient and effective protection possible against illegal practices within the domain of electronic communication.

3.5 ConsuWijzer

Consumers can visit ConsuWijzer to obtain information and advice about their rights and duties. ConsuWijzer is a joint venture of OPTA, the Netherlands Competition Authority and the Consumer Authority. Consequently, consumers may also turn to ConsuWijzer for answers to any questions they have in relation to telecommunications and post. A media campaign featuring commercials on both radio and television, which started in 2008, has significantly boosted awareness of ConsuWijzer. The number of visitors to the website rose from 446,000 in 2007 to more than one million in 2008. A total of approximately 55,000 telephone calls, and 40,000 e-mail messages and letters have been received through ConsuWijzer in the past year. More than 18,000 of the reports received related to post and telecommunications. Again in 2008 the reports which reached OPTA through ConsuWijzer were very valuable for the purposes of helping it to perform its regulatory duties in relation to consumer protect ([Chapter 1](#)).

3.6 Data Protection Authority

OPTA and the Data Protection Authority [College Bescherming Persoonsgegevens] (CBP) work together on the basis of a collaboration protocol which was agreed to in 2005. This protocol mainly concerns the division of labour for the purposes of tackling spam and other privacy-related issues governed by the Telecommunications Act.

In 2008 OPTA and CBP drew up a joint legal opinion for 'tell-a-friend' systems. A 'tell-a-friend' system involves a website sending an e-mail message (at the instigation of a visitor or on his behalf) without the addressee's prior consent. The Telecommunications Act prohibits the transmission of unsolicited electronic messages for a commercial purpose (spam). In addition, a personal e-mail address always constitutes personal data. The Personal Data Protection Act [Wet bescherming persoonsgegevens] stipulates requirements in this respect. The legal opinion sets out a number of conditions, amongst other things, that a 'tell-a-friend' system must satisfy the requirements stipulated in the Telecommunications Act and the Personal Data Protection Act. Amongst other things, these conditions will ensure that it is clear who has sent such a message and that the details of the sender and the addressee are adequately protected. ●

4 OPTA's operations

Transparency, efficiency and a precise assessment of the benefits of expenditure are paramount in the Commission's approach to management. The organisation must always be able to perform the duties assigned to it as flexibly and economically as possible. Our budget and authorised staffing complement must be reduced where possible but without sacrificing quality. This is important, because OPTA is largely subsidised by the market parties which it regulates.

OPTA finds it important to interact with the market and the outside world. Partly through regular consultations (about the draft budget, for example), amongst other things, market parties and stakeholders are afforded the opportunity to pose questions and to exert an influence on OPTA's operations. In addition, OPTA regularly invites market parties to contribute ideas to issues relating to regulation and supervision. OPTA interacts closely with the market and this is crucial for its work. We provide the market with feedback in the form of papers setting out our findings, and what matters will be incorporated into our policy and what will not.

4.1 Probity

OPTA feels that it is vitally important that its staff act with integrity. Apart from this, the relevant regulations have been tightened in recent years. With this in mind OPTA updated its code of conduct in 2008. OPTA's new policy on probity is a response to the above-mentioned recent developments. This policy encompasses a large number of coherent measures. For example, it includes a modern code of conduct setting out general norms and values.

In addition, it also extends to structural measures, such as requests for a certificate of good conduct from new members of staff. In addition, two consultants are available to provide support for managers and other OPTA staff in relation to concrete issues involving probity.

4.2 Recruitment and selection policy

OPTA has acted with restraint when filling any vacancies since 2005. This led to a situation in which clearly discernible difficulties arose by the end of 2007 due to a lack of manpower. In 2008 a two-track policy was pursued: the intensive, focused recruitment of new personnel and, running parallel to that, the development of an appropriate recruitment and selection policy. Thanks to the employment of a multiplicity of recruitment tools it was possible to eliminate the capacity shortfalls in 2008 and compensate for natural attrition. On balance OPTA's staffing complement also fell short of the limits imposed by the budget and the duty to economise in 2008. The policy of exercising restraint in relation to the appointment of new personnel will remain in effect.

A new recruitment and selection policy was developed in 2008. Amongst other things, it sets out policy principles and describes the tools and methods which are to be used for the purposes of recruitment and selection. It also describes the procedures that are to be followed to ensure that applicants are treated with due care.

A special website, www.werkenbijopta.nl, was launched in the third quarter of 2008. It utilises interactive methods to inform applicants about a possible career with OPTA.



“communication... of vital importance”

What is the location, what is the situation? In my work, everything centres on communication. In the ambulance we keep contact with the hospital, the general practitioner and sometimes the emergency helicopter and police escort. The walkie-talkie, with its emergency button, also gives one a feeling of being safe when one has to deal with aggression.

Martin Verbeek (41), ambulance driver

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Assistance is available for actual newcomers in the form of a colleague to show them the ropes, a mentor, an OPTA introductory course and professional training. All of this is provided in addition to the educational and training facilities which are available for OPTA staff.

4.3 Restructuring

A new organisational structure was introduced in January 2008. It enables OPTA to respond to market developments more decisively. It is possible to deploy staff more effectively and to experience more wide-ranging development. In addition, the number of managers has been reduced from 19 to nine. This has also produced an attendant benefit in the form of greater efficiency. As such, OPTA has at the same time completed the first stage of the duty to economise, which has been imposed on it. The fourth and final stage will be completed in 2011.

4.4 Absenteeism

The reduction of absenteeism enjoyed priority again in 2008. The array of measures that had already been adopted for the purposes of the health policy which had been decided on in 2007 was supplemented with centralised training on 'coping with stress', a fitness test and the offer of a flu vaccine. A number of long-term and frequently absent staff left. This has had a favourable impact on absenteeism figures. In addition, ongoing efforts on the part of the entire organisation (staff, supervisors and senior management) began to have an effect in 2008. In the same year the absenteeism rate dropped from 6.8% in 2007 to 4%. Consequently, OPTA has an absenteeism rate which is in line with that of other public bodies. Moreover, a further decline still seems possible in 2009.

4.5 Voorschrift Informatiebeveiliging Rijksdienst

The Civil Service Information Security (Classified Information) Order [Voorschrift Informatiebeveiliging Rijksdienst] (VIR) represents a method of introducing data security. In 2007 OPTA initiated a project to obtain a VIR certificate. With the aid of such a certificate OPTA will be able to show that its data is properly secured. BDO CampsObers Audit & Assurance B.V. had already commended OPTA for its progress in this area in a letter addressed to management in 2007.

In 2008 OPTA took all of the steps that are required to comply with these regulations. Amongst other things, these steps consisted in restructuring the demilitarised zone (DMZ) – the zone where Internet traffic first enters and is screened for viruses, for example – updating its patching policy and drawing up various procedures and guidelines. OPTA ensured that its technical documentation was in order. In addition, its user and systems administration manuals were updated. Change, Incident, Release and Problem Management was also put into service. It comprises stricter procedures for the implementation of changes and for dealing with problems and incidents. An updated data security plan was discussed by the management team in the spring of 2008. This plan sets out and explains all of the measures that have been adopted. All of these steps were taken in close consultation with BDO CampsObers Audit & Assurance B.V. Round about the turn of the year the latter conducted the actual audits which are supposed to lead to a VIR certificate.

BDO has since issued a report to the effect that in terms of its structure and operations OPTA satisfies the requirements for the purposes of the VIR as at 31 December 2008. During the last quarter of 2008 OPTA also established that it had complied in relation to the effects of the measures required as well. Of the latter BDO confirmed

the operation of the general IT controls governing the processes of availability and change management, and logical and physical access security.

4.6 Works Council

OPTA's Works Council (WC) consists of seven members, who were elected in 2008, and an official secretary. The WC is the representative body which acts on behalf of staff covered by OPTA's organisational policy. Regular consultations are held between the WC, the chairman of the OPTA Commission and the head of the personnel department. In order to involve staff as closely as possible in the work performed by the WC and of the organisational policy pursued by OPTA the WC organises staff meetings to consider current topics, and it consults its constituency.

In 2008 the WC was preoccupied with the new evaluation system for 2009. This occurred because the previous WC had not consented to its further use in 2008 based on experience with the performance-oriented competency management system in 2007. Following close consultation with the personnel department the WC consented to the introduction of a new evaluation system. In addition, during the year under review the WC gave its consent for, amongst other things, the annual working conditions plan, the recruitment and selection policy and block days.

In addition, the WC attended meetings (for the purposes of consultation and otherwise) organised by the departmental works council within the Ministry of Economic Affairs in relation to general government tasks and their implications for OPTA.

The WC was also closely involved in the introduction of various arrangements (pertaining to staff and otherwise) relating to probity, career development and preventive medical examinations. Finally, all of the members of the WC attended an intensive three-day training course in the autumn. The issues that were dealt with as part of this included, amongst other things, teambuilding, customer relationship management and the WC's annual plan. ●

abbreviated annual accounts 2008

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“now it’s my turn!”

We are on the Internet every day. My MyBee portal is green and Jackie’s is pink. At first I had rockets on my portal, but now I think they’re boring. I like trying out new games. After three goes, I already understand how they work very well. Mother, proudly: “They know what they have to do much quicker than I do. Unbelievable.”

**Pepijn (5) and Jackie (4),
toddlers**

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To: The OPTA Commission

Auditor's report

Introduction

We have audited whether the accompanying abbreviated annual accounts of OPTA, The Hague, for the year 2008 as set out on pages 56 to 67 have been derived consistently from the audited annual accounts of OPTA, for the year 2008. In our auditors' report dated 30 March 2009 we expressed an unqualified opinion on these annual accounts. The OPTA commission is responsible for the preparation of the abbreviated annual accounts in accordance with the accounting policies as applied in the 2008 annual accounts of OPTA. Our responsibility is to express an opinion on these abbreviated annual accounts.

Scope

We conducted our audit in accordance with Dutch law. This law requires that we plan and perform the audit to obtain reasonable assurance that the abbreviated annual accounts have been derived consistently from the annual accounts.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, these abbreviated annual accounts have been derived consistently, in all material respects, from the annual accounts.

Emphasis of matter

For a better understanding of OPTA's financial position and results and the scope of our audit, we emphasize that the abbreviated annual accounts should be read in conjunction with the unabridged annual accounts, from which the abbreviated annual accounts were derived and our unqualified auditors' report thereon dated 30 March 2009. Our opinion is not qualified in respect of this matter.

The Hague, 12 May 2009

BDO CampsObers Audit & Assurance B.V.
On its behalf,

Sgd.
J.J. Herst RA

Balance Sheet

	31 December 2008 x € 1.000	31 December 2007 x € 1.000
Assets		
Fixed assets		
Tangible fixed assets:		
Tenant's property	893	975
Furniture and fixtures	232	225
Computer hardware and software	1.955	1.653
	3.080	2.853
Current assets		
Accounts receivable	235	257
Fines and conditional penalties receivable	1.889	6.204
Other receivables	545	511
Cash and bank balances	5.167	989
	7.836	7.961
Total assets	10.916	10.814

	31 December 2008 x € 1.000	31 December 2007 x € 1.000
Net assets		
General reserve	432	422
	432	422
Provisions		
Provision for objection and appeals	20	11
Provision for future remuneration	479	545
Provision for anniversary bonuses	44	44
	543	600
Current liabilities		
Payable to the market	530	1.351
Payable to suppliers	655	626
Debt to Ministry of Economic Affairs	182	435
Taxes and social security charges	339	319
Fines and conditional penalties	7.447	6.205
Other liabilities	788	856
	9.941	9.792
Total liabilities	10.916	10.814



“something other than accounts in your letterbox”

Postcrossing is requesting the addresses of unknown people worldwide through the Internet. You send a card with a unique code. The recipient registers the code via a website and then you receive a card from someone else. At home I have one wall wallpapered with these cards.

Tamara Dekkers (26), carer

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Statement of Income and Expenditure

	Actual 2008 x € 1.000	Budgeted 2008 X € 1.000	Actual 2007 x € 1.000
Income			
Revenues from market categories	13.860	15.165	15.265
Other income	1.413	2.167	1.523
Extraordinary income	23 ³	-	-
Total income	15.296	17.332	16.788
Expenditure			
Personnel costs			
Salaries and social security charges	8.138	9.799	8.280
Other personnel costs	1.415	939	1.047
	9.553	10.738	9.327
Third-party assignments	1.596	2.003	1.363
Cost of goods purchased	3.842	4.169	3.742
Depreciation	1.248	1.382	1.294
Extraordinary expenditure	13 ⁴	-	175
Total operating expenses	16.252	18.292	15.901
Operating result	- 956	- 960	887
Interest income	145	-	144
Result	- 811	- 960	1.031

Appropriation of result

The Commission has decided to allocate the loss of € 811,000.00 suffered in 2008 as follows:

1 € 10,000.00 will be allocated to the general reserve;

2 € 821,000.00 will be deducted from Payable to the market.

This decision has already been accounted for in the annual accounts.

³ This refers to the fire which occurred on 8 August 2008. This amount is equal to the difference between the insurance payout of € 145,000.00 and the capital loss of € 122,000.00 due to disposals relating to the fire.

⁴ This is due to the restructuring which occurred in 2007.



“you can also
communicate via
MSN while you’re
on the telephone”

I started with a scanner and a radio telephone when I was a fireman. Now I have a pager, so that I know where an incident occurs and I can go and take photos.

Timo Revet (18), electrician

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Notes to the abbreviated annual accounts for 2008

1 Current liabilities

Payable to the market

This item is used to account for the result of the various market categories for the purposes of incorporating it into future tariffs.

Excluding extraordinary expenditure the result amounted to a loss of € 821,000.00 (plus interest income of € 145,000.00 and other income of € 1,000.00). This amount has been deducted from Payable to the market.

The following table presents the breakdown of the item, payable to market, over the various market categories (in € 1,000):

	31 December 2008	31 December 2007
Electronic communications	- 51	107
TTP – certification service providers	- 46	- 46
Numbers	597	1.315
Post	30	- 25
	530	1.351

Fines and conditional penalties

Fines and conditional penalties may be broken down as follows (in € 1,000):

Party	31 December 2008	31 December 2007
Koninklijke KPN N.V.	3.808	4.480
KPN Corporate Legal & Regulatory	1.550	220
WorldToStart B.V. / Media Highway International B.V.	300	300
Private individual	300	300
Private individual	270	-
Abodata V.O.F. / H.P.T. Development B.V. / Private individual	240	-
E.C.S. International B.V.	200	200
Tele2 Netherlands B.V.	200	200
Private individual	200	200
Private individual	88	-
Private individual	75	75
Private individual	55	55
Private individual	43	43
Van Leerdam's Verkoopmaatschappij B.V.	27	27
Speko B.V.	23	23
Stichting Yellow Monday, h.o.d.n. Purple Friday	20	20
Private individual	16	-
Private individual	10	-
Zmart B.V.	10	10
Pidplates Performances B.V.	10	10
Private individual	2	2
Groenendaal Uitgeverij B.V.	-	20
Low Cost Linking Inc.	-	20
Vodafone Libertel B.V.	-	0,4
	7.447	6.205

The above-mentioned amounts may consist of fines or conditional penalties imposed in previous years. Lodging an objection, or initial or higher appeal has the effect of suspending the collection of fines. Once fines or conditional penalties are collected, they are remitted to the Ministry of Economic Affairs.

A total of € 120,400.00 was remitted to the Ministry of Economic Affairs in 2008: a fine imposed on KPN Corporate Legal & Regulatory accounting for € 120,000.00 and a conditional penalty imposed on Vodafone Libertel B.V. accounting for € 400.00.

Fines imposed on Koninklijke KPN N.V. and KPN Corporate Legal & Regulatory totalling € 3,808,000.00 and € 1,550,000.00 were received in 2008 and remitted to the Ministry of Economic Affairs in January 2009.

The conditional penalty imposed on Low Cost Linking Inc. in 2003 was written off in 2008. The same applies to the conditional penalty which was imposed on Groenendaal Uitgeverij B.V. in 2004.

2 Salaries and social security charges

Salaries, pension contributions and social insurance charges

Salaries, pension contributions and social insurance charges may be broken down as follows (in € 1,000):

	2008	2007
Salaries	6.764	6.914
Pension contributions	826	838
Social insurance charges	548	528
	8.138	8.280

Average number of employees

The average number of employees amounted to 133 in 2008 (2007: 134).

Remuneration of Commission members

The costs incurred by OPTA for the purposes of remunerating the members of the Commission in 2008 may be broken down as follows (in € 1,000):

	Salaries	Fixed Expense Allowance	Business Representation Allowance	Pension Contributions	Social Insurance Charges	Remuneration Payable in the Future	Total
C.A. Fonteijn	123	39	6	24	5	50	247
M.W. de Jong	34	-	2	-	-	-	36
A.P. Aris 15 Mar - 31 Dec	27		1	-	-	-	28
Total	184	39	9	24	5	50	311

Mr C.A. Fonteijn is the Chairman of the OPTA Commission and both Mr M.W. de Jong and Ms A.P. Aris are non-executive (part-time) members. The remuneration of permanent members is set out in the OPTA Permanent Members (Legal Position) Regulations [Regeling rechtspositie vaste leden van OPTA].⁵

You are referred to pp. 6 and 7 of the annual report for a more detailed explanation of the Commission's membership.

OPTA reports the following expenses (x € 1,000) concerning the salaries of the commission members for 2007:

	Salaries	Fixed Expense Allowance	Business Representation Allowance	Pension Contributions	Social Insurance Charges	Remuneration Payable in the Future	Total
C.A. Fonteijn	122	39	6	17	4	56	244
M.W. de Jong	34	-	2	-	-	-	36
L.A. Geelhoed 1 Jan - 21 Apr	12		1	2	10	-	25
Total	168	39	9	19	14	56	305

⁵ Staatscourant [Government Gazette], 31 August 2005, No. 168, p. 10.

WOPT

In accordance with the provisions of Section 6 of the Disclosure (Publicly Funded Top Incomes) Act [Wet openbaarmaking uit publieke middelen gefinancierde topinkomens]⁶ (WOPT) a breakdown is provided covering those members of the Commission who earned more than the equivalent of the average minister's taxable income. The

standard amount was exceeded in the case of a former departmental head and Mr C.A. Fonteijn, whose legal position the Minister of Economic Affairs has set out in the OPTA Permanent Members (Legal Position) Regulations referred to on the previous page.

The breakdown of the WOPT amounts for 2008 is as follows (in € 1,000):

	Taxable Income	Pension Contributions	Other Amounts Payable in the Future	Severance Pay	Total
C.A. Fonteijn	159	36	50	-	245
Departmental head	45	8	-	184	237

OPTA has cited the relevant amounts for 2007 in connection with the Public Disclosure of Top Incomes Act [Wet openbaarmaking topinkomens (WOPT)]. As a result the amounts in the case of Messrs Fonteijn, De Jong

and Geelhoed exceed the so-called "Balkenende norm" (based on full-time appointments). However, the amounts for the departmental heads do not exceed this norm.

The breakdown of the WOPT amounts for 2007 is as follows (in € 1,000):

	Taxable Income	Pension Contributions	Other Amounts Payable in the Future	Severance Pay	Total
C.A. Fonteijn 1 Jan - 31 Dec	157	26	56	-	239
M.W. de Jong 1 Jan - 31 Dec	40	-	-	-	40
L.A. Geelhoed 1 Jan - 21 Apr	13	3	-	-	16
Afdelingshoofd 1 Jan - 31 Dec	85	18	-	-	103

⁶ Staatsblad [Bulletin of Acts and Decrees], 2006, 95.

3 Market category revenues and expenses, and other categories

OPTA derives its income from its legally stipulated duty to charge market parties fees for its annual regulatory work, registrations, licences, allocations, reservations, amendments and urgent dealings. The market parties were charged these fees on the basis of the OPTA Fee Regulations [Regeling vergoedingen OPTA] 2007.⁷ A one-off amendment was made to the fee regulations in 2008.⁸

OPTA implements enforcement policy in order to determine to what extent the relevant market parties have complied with their legally stipulated duties. The annual report reveals how OPTA performs its regulatory work and hence also the degree of certainty that is achieved with regard to the lawful nature of its receipts from market parties. Actual figures are accounted for in arrears.

Income and expenditure may be broken down by market category as follows (in € 1,000):

	Actual 2008	Budgeted 2008	Actual 2007
Income			
Revenues from market categories:			
Electronic communications	11.722	11.896	13.135
TTP – certification service providers (including a contribution to the Ministry of Economic Affairs)	33	72	28
Numbers	1.542	1.770	1.561
Post	563	1.427	541
Market categories subtotal	13.860	15.165	15.265
Other income:			
Objections and appeals	1.242	2.114	1.319
Implementation assessments	170	53	204
Other income	1	-	-
Other income subtotal	1.413	2.167	1.523
Extraordinary income	23	-	-
Total income	15.296	17.332	16.788

⁷ Staatscourant, 20 December 2007, No. 247, p. 14.

⁸ Staatscourant, 2 October 2008, No. 191, p. 1.

Both actual income and expenditure are approximately € 2 million under budget. Consequently, the final operating result is virtually identical to the budgeted figure.

The 2008 budget was based on the deregulation of the postal market on 1 January 2008. Due to its postponement both actual income and expenditure for the market category, post, were € 0.9 million under budget. The actual expenses incurred in relation to objections and appeals also fell short by € 0.9 million. The reason for

this is that OPTA staff spent considerably less time on objection and appeal cases than had originally been planned and the fees paid for advice on objections and appeals amounted to less than what had been budgeted.

Unlike the market categories, the costs of objections, appeals and implementation assessments are settled annually with the Ministry of Economic Affairs based on subsequent calculation. ●

	Actual 2008	Budgeted 2008	Actual 2007
Expenditure			
Expenditure of market categories:			
Electronic communications	11.908	11.896	11.709
TTP – certification service providers (including a contribution to the Ministry of Economic Affairs)	33	72	28
Numbers	2.387	2.730	1.848
Post	499	1.427	618
Market categories subtotal	14.827	16.125	14.203
Other expenditure:			
Objections and appeals	1.242	2.114	1.319
Implementation assessments	170	53	204
Extraordinary expenditure	13	-	175
Other expenditure subtotal	1.425	2.167	1.698
Total expenditure	16.252	18.292	15.901
Operating result	- 956	- 960	887

key figures

2008

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“everything is wireless”

Previously I had a PC in every room, which communicated with each other through cables. Now I have an HTPC server which allows me to manage everything in the house by just pressing a button: from the digital radio in my study to the TV in the living room. Nothing is beyond the realms of possibility.

**Nicolaï van Egmond (32),
IT-manager**

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Key figures

Enforcement

Regulation and enforcement

Number of fines imposed	9
Conditional penalties	7

Preventive action taken for the purposes of enforcement

Prior announcement of conditional penalty	1
Warning pursuant to Section 7.2	1
Warning pursuant to Section 11.7	9
Baseline survey of ISP based on their information	35
Letter to companies setting out telemarketing norms	19

Disputes

Number of disputes

Received	17
Under consideration	32
Resolved in 2008	31

Disputes by subject matter

Cable	1
Access to services	0
Post	1
Cable laying (right of way)	9
Interoperability	6
Total	17

Disputes under the terms of Chapter 5 of the Telecommunications Act: An application for enforcement and two disputes were resolved through mediation. Answers were provided to 51 questions concerning Chapter 5 of the Telecommunications Act.

Objections and appeals

Received in 2008

Objections	47
Appeals	18
Appeals to higher tribunal	29
Provisional relief	9

Situation as at 31 December 2008 *(work in progress)*

Current objections	25
Current appeals	15
Current appeals to higher tribunal	35
Current provisional relief	2

Resolved in 2008

Objections	68
Objections	12
Appeals to higher tribunal	44
Provisional relief	8
Punitive decisions	4

Outcome of resolved objections

Withdrawn	23
Well-founded	12
Without grounds	21
Inadmissible	5
Partly well-founded, partly without grounds	2
Partly without grounds, partly inadmissible	1
Not considered	0
Other	4
Total	68

Resultaten van behandelde:

	Appeals	Appeals to Higher Tribunal
Ingetrokken	4	19
Gegronnd		6
Ongegrond	8	9
Niet ontvankelijk		1
Anders		9
Totaal	12	44

Market analyses**Analyses completed in 2008**

Wholesale broadband access	1
Unbundled access at the wholesale level	1
Leased lines	1
Fixed telephony	1
Fixed terminating calls	1
Transit	1
Wholesale Line Rental – amendment of WLR decision (corrective decision)	1
Inter-regional terminating calls (corrective decision)	1
Terminating calls: Tele2 and UPC (corrective decision)	1
Amendment of terminating calls decision (fixed telephony)	1
Mobile terminating access (corrective decision)	1
Total	11

Appeals against analyses

Received	12
Under consideration	16
Resolved	18

Registration of market parties

Category	Situation as at 1 Jan. 2008	Registration	Termination of Registration	Situation as at 31 Dec. 2008
Provider of a public electronic communications network	380	48	43	385
Provider of a public electronic communications service	399	62	54	407
Provider of related facilities	12	1	3	10
Provider of qualified certificates	4	2	0	6

Number of providers by turnover category

	2006	2007	2008
Category 1 net turnover > € 20 million	31	32	30
Category 2 € 2 million ≤ net turnover ≤ € 20 million	95	107	121
Category 3 net turnover < € 2 million	268	291	314
Total	394	430	465

Numbers

Number of information numbers assigned, reserved and withdrawn

	Assigned	Reserved	Withdrawn
0800	1198	45	585
0900	1827	43	1164
0906	347	1	745
0909	437	18	358
Total	3809	107	2852

Number of decisions concerning numbers

Information numbers	3906
Business numbers	730
Other numbers	145
Name changes	251
Total	5032

Number of decisions involving numbers *broken down by type of decision*

Assigned	2779
Rescission of decision	1640
Withdrawal of application	19
Rejection	166
Name change	251
Decommissioned	147
Total	5032

Number lotteries and urgent applications

Number of lotteries	1
Number of urgent applications	60

Scarcity of relevant series of numbers

Number Series	Percentage of Available Numbers
Short 0900 numbers	45,5 %
Short 0800,0906 and 0909 numbers	80,1 %
Long 0800, 0900, 0906 and 0909 numbers	> 99 %
Mobile numbers	22,7 %
Carrier selection (4-digit) numbers	34 %
Subscriber information service 18xy numbers	58,6 %

Preventive action taken for the purposes of enforcement

Warning concerning the selectability of numbers pursuant to Section 6.1 of the Telecommunications Act	2
Correspondence concerning the selectability of 112	2
Warnings concerning number portability	5
Prior announcement of conditional penalty in relation to transparency of call charges	2
Withdrawal of numbers following regulatory action in relation to short information numbers	206
Withdrawal of number following its apparent misuse (at the request of the holder of the number)	1
Letters providing information to providers and number users concerning new transparency requirements	100
Letters providing information to number holders concerning new legislation and regulations	6500
Letters to mobile phones service providers concerning transparency in relation to prepaid tariffs	3
Requests for advice to BIBOB	1



“I’m addicted to forums”

My computer has two screens. So I can quickly switch from one Internet forum to another. Each day I visit eight forums, for a minimum of three hours a day and sometimes six. We also see each other face to face. When I return home, even if it is one o’clock in the morning, I slip in front of my computer.

**Mathilde van Bokhoven (66),
retired bon vivant**

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Personnel and budget

Termination of employment

Employment terminated	3
Total net severance pay	€ 191.379

Personnel costs

Personnel costs	2008	2007
Total salaries (including remittances and bonuses but excluding the Commission)	7.542	7.685
Average salary	47	49
Other personnel costs	337	242

Workforce

Date	Authorised Staffing Complement (FTEs)	Staff		
		Men	Women	Total
1 January 2008	152	64	67	131
31 December 2008	152	65	69	134
Average in 2008	152	65	68	133

Breakdown by age as at 31 December 2008

Age Group	Number of Staff
25 years and younger	3
25 to 34 years	38
35 to 44 years	58
45 to 54 years	28
55 years and older	7

Absenteeism rate

The absenteeism rate for all of OPTA was 4%. See Section 4 of [Chapter 4](#) for information about absenteeism.

Breakdown of Staff by Scale as at 31 December 2008

Scales 3 - 16	Number of Staff
3	0
4	5
5	3
6	5
7	14
8	11
9	6

Scales 3 - 16	Number of Staff
10	12
11	24
12	16
13	20
14	11
15	1
16	2

Ratio of direct to indirect expenditure

The ratio of direct to indirect expenditure was 69:31. This is an improvement compared with 2007 (67:33).

Complaints about OPTA

OPTA did not receive any complaints under the terms of Part 9 of the General Administrative Law Act [Algemene wet bestuursrecht] in 2008.

ConsuWijzer**ConsuWijzer reports in 2008 broken down by subject**

Fixed telephony	4669
Internet	4524
Mobile telephony	4114
Spam	906
Telemarketing	964
Broadcasting (including cable)	1101
Telephone numbers	804
Post	320
Information numbers	269
Total	17.671

Spamklacht

Number of complaints	12.314
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Glossary

Significant market power (SMP)

the economic position of power held by a market party giving it, alone or in combination with other companies, the power to act independently of its competitors and customers, and ultimately consumers to a significant degree. A large market share may be indicative of the existence of SMP. An SMP designation may lead to the imposition of remedies.

See also Market Analysis and Draft Decision.

ADSL (Asymmetric Digital Subscriber Line)

a technology allowing rapid Internet traffic over telephone lines with downloading and uploading occurring at different speeds (asymmetry). A user can download data faster than he can upload it. See also DSL.

Broadband (Internet access)

access to the Internet via broadband infrastructures, for example cable, xDSL and fibre optic cable. With a minimum download speed of 128 kb per second, broadband is faster than traditional Internet access via a normal analogue telephone line. It provides a permanent Internet connection and is charged at a fixed rate per period irrespective of the number of minutes used.

Botnet

a network of hacked computers which cyber criminals can operate remotely.

Bundling

offering multiple products or services as a single product: the bundle. Examples of this are dual play (Internet and telephony or television services, or television and

telephony services), triple play (Internet, television and telephony services) or quadruple play (Internet, television, and fixed and mobile telephony services).

Carrier selection/pre-selection (CS/CPS)

by dialling four or more digits, a telephone subscriber can direct his call through an alternative telecommunications provider. This occurs automatically in the case of carrier pre-selection. Companies that offer carrier selection or pre-selection use KPN's fixed network for their telephone services.

CNSA

a contact network of spam authorities (CNSA) whose task is to combat spam. The European Commission is responsible for its secretariat.

Convergence

different services, such as those involving television, telephony and the Internet, are increasingly utilising the same technology, for instance, voice over IP (VoIP) or telephone services via the Internet, as it is also known.

Compliance programme

an internal code of conduct and activities involving probity and responsibility, which is designed to ensure that companies and their employees act in accordance with the law.

Penetration rate

the proportion of active connections per inhabitant.

Digital terrestrial RTV

the transmission of digital radio and television signals from transmission masts.

DSL (Digital Subscriber Line)

There are many types of DSL, the most important for the consumer market being ADSL. See also ADSL.

DVB

digital video broadcasting, an open standard for digital television.

DVB-H

DVB-handheld is similar to DVB-T but has been optimised for mobile usage and reception on handheld devices, such as mobile phones and personal digital assistants (PDAs).

DVB-T

DVB-terrestrial services are transmitted from transmission towers located on the earth.

ECTA (European Competitive Telecommunications Association)

an association of new entrants into the electronic communications markets.

End user

a consumer or any other retail procurer (business or otherwise) of services.

Fiber to the Home (FttH) / Fiber to the Office (FttO)

a fibre optic network which extends to end users. See also Fibre Optic Network.

Fibre optic network

this type of network transmits information as light rather than electronic pulses. Fibre optic connections provide enormous data capacity and have a greater bandwidth

than coaxial or copper networks, which means that more information can be transmitted within a short period of time.

Wholesale tariffs

See Wholesale.

GSM (Global System for Mobile Communications) a European and North American mobile telephony network standard.

GSM 900

GSM at a frequency of approximately 900 MHz.

GSM 1800

GSM at a frequency of approximately 1800 MHz.

HDTV (High Definition Television)

television technology which supports a higher resolution display.

High trust

Trust in a company which is subject to regulation. The company itself adopts those measures that are required to ensure compliance with the regulations. This addresses a desire to reduce regulatory costs.

High capacity connection

a high capacity connection (with a minimum of three connections) which is predominantly used for business purposes.

Leased line or WLR

a transparent communication connection between two points. A leased line can be used by companies to connect separate sites or offices. In the case of telephone lines which are used rather intensively (for example payment terminals) it can be worthwhile to use a leased line rather than a normal switched telephone connection.

Interconnection

linking communication networks to enable users of one network to communicate with those connected to a different one.

Internet service provider (ISP)

a provider who provides Internet services to consumers and other end users.

IPTV

broadband digital television.

Junk mail

unsolicited e-mail messages.

Cost-oriented tariff

a tariff which is based on the actual costs involved plus a reasonable profit margin.

LAP

the London Action Plan, a global collaborative network of spam enforcement agencies, governments, industry, international organisations and interest groups. LAP was established to promote collaboration between its members and to share knowledge.

Malware

a collective term for malicious and/or harmful software.

Market analysis

the definition of relevant markets in accordance with the principles of general competition law. If one or more parties in a defined market are so strong that they can act independently of their competitors, OPTA may impose appropriate remedies in order to stimulate competition in that market. See also SMP and Draft Decision.

Mobile terminating access (MTA)

routing inbound calls to a mobile network.

Next generation network

a packet-based network which encompasses all telecommunication services.

Non-discrimination obligation

an obligation to grant customers in the same situation access subject to identical conditions.

Numbering plan

a plan drawn up by the Ministry of Economic Affairs which sets out how numbers (for telephone and other services) are categorised, their designated use (geographical numbers, for example) and which series of numbers are available. OPTA administers this plan.

Number portability

the ability to take one's number when switching from one provider to another.

Unbundled access

the way in which KPN enables other providers to offer telephony and broadband services through its local loop network. Unbundled access means that the local loop (the copper wires from a home to the local exchange) is operated by one of KPN's competitors. In the case of comprehensive unbundling its competitors take over the entire connection. In the case of shared access (line sharing) KPN's competitors share the local loop with it and it continues to offer its telephone services.

Draft decision

a provisional market analysis decision of which notice is given. See also Market Analysis and SMP.

Price cap or ceiling

a regulatory measure which stipulates an annual rise or fall in the price paid for a particular service over a longer period of time.

PSTN

a public switched telephony network (PSTN), the technical term for the ordinary telephone line with which we have been familiar for decades. It is possible to use such a telephone line to achieve a connection to make a telephone call, send a fax or access the Internet but only one of these activities can occur at a time.

Radio transmission service

the wireless broadcast of radio signals (for example, FM).

Retail

an end-user market, for example, for the sale of services by market parties to consumers.

Roaming

making mobile phone calls in another country from a foreign to a Dutch network. The various providers charge a fee (a large one) for using the different networks.

Slamming

acquiring a subscription for telephony services without the consent of the subscriber in question.

SMS (Short Message Service)

a service which makes it possible to send text messages from one mobile phone to another.

Spam

unsolicited messages via e-mail, a mobile phone or fax, usually advertising materials or messages for a charity or some other good cause.

Spyware

spying software which makes information accessible to other parties or sends data through the Internet without the user's knowledge. It can also record detailed user information without permission.

Traffic light model

KPN is no longer required to seek OPTA's approval in advance for all tariff proposals or discounts, but can determine itself which tariff proposals are acceptable based on criteria. In accordance with this system, certain tariff proposals on the part of KPN are absolutely unacceptable (red), some will always be allowed (green), and other proposals may only be implemented after OPTA gives its approval (amber).

Transmission capacity

the amount of data which can be transmitted through a connection each second.

Transparency obligation

an obligation to provide all of the information which customers require in order to obtain access.

Telecommunications Act

The Dutch Telecommunicatiewet.

Implementation assessment

draft legislation and regulations, and proposed policy which could have an impact on the powers and duties of OPTA are presented to the latter for the purposes of conducting an implementation assessment. As part of such an assessment OPTA presents advice to the Minister of Economic Affairs about the potential to implement and enforce any proposed regulations, amongst other things, and it provides advice on alternatives for making the proposed policy more functional and effective.

UMTS

Universal Mobile Telecommunications System, a technology used to transmit digital signals which is faster than GSM.

Unbundled local loop (ULL)

Unbundled access. This sees one provider grant another physical access to a network in a fixed location. This means that a company receives consent from another provider to use the latter's local loop to end users. Apart from full unbundled access, this could also take the form of shared access, where a consumer wishes to procure broadband and traditional telephone services from different providers. A provider who procures unbundled access to a local loop network obtains consent to use the frequency spectrum (or part of it) of the relevant infrastructure.

Universal service (US)

The universal service is described in the Telecommunications Act and the Postal Act [Postwet]. It ensures that a basic package of postal services of a specific level of quality remains available and accessible to everyone based on uniform affordable tariffs. In addition to delivering letters from 1 g to 50 g (up to a maximum equivalent to two and a half times the standard tariff of EUR 0.44) TNT, the universal service provider, also has a duty to provide so-called 'other assigned services'. Competition is allowed in relation to these services.

Upstream provider

a provider from whom services are procured.

Voice over IP/DSL (VoIP, VoB, Internet telephony)

calls made using the Internet protocol and forms of voice telephony routed through data networks, such as the Internet.

Wholesale

a wholesale market, for example, for the sale of services by one market party to others. KPN charges its customers wholesale tariffs for using its network for telephone calls, data transmission and leased lines.

Wholesale broadband access (WBA)

wholesale broadband access makes it possible for companies to supply electronic communication services to their end users. Wholesale customers procure broadband transmission services without having direct physical access to end user connections.

Wholesale line rental (WLR)

see Leased Lines.

WiFi

a technology which makes it possible for end users to access the Internet through local access points.

Wireless local loop (WLL)

a collective term for wireless Internet access technologies.

Independent administrative body (IAB)

an external organisation which is not subordinate to a government minister and which performs a specific administrative task independently. To a certain extent the relevant minister still exercises authority.

Duty of care

the legal duty of Internet service providers to adopt technical and organisational measures to secure their services. They also have to provide their users with information about the risks involved and how they can protect themselves accordingly. 

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