

Groep Nederlandse dagbladers

Nederlands

uitgeversverbond

European Commission
Directorate-General for Competition
Consultation (Broadcasting)
State aid Registry
1049 Bruxelles/Brussel
BELGIQUE/BELGIË
Fax: +32 22961242
E-mail: comp-broadcasting-review@ec.europa.eu

Amsterdam, 8 May 2009
De Nederlandse Dagbladers (NDP)
Ref: RE/TN
Subject: **Consultation Broadcasting Communication second draft**

Dear Madam, Sir,

The Dutch Newspaper Publishers Association (NDP) represents the interests of all (paid for) newspaper publishing companies in the Netherlands. All together our members publish 30 independent newspapers. Our members do not only offer content in printed media, but are also increasingly active in the online world.

The primary goal of NDP is to create the conditions for development of the economically healthy press in the Netherlands, through which a pluralist offer of newspaper content (in print as well as electronic) can be realised.

In this letter NDP would like to give its views on the Commission's role in assessing state aid to public service broadcasting laid down in the second draft of the Revised Broadcasting Communication.

Consultation process

NDP is pleased to see that the Commission has chosen to act transparently in the decision-making process by opening once more the process for public consultation through the publication of a second Draft Communication. NDP would like to draw your attention to its previous letter dated January 15 2009. The views NDP outlined in this letter are still up to date. In this letter we will therefore only reflect on some key issues.

Recognition for newspaper publishers

NDP is very pleased to see that newspaper publishers' contribution to society and democracy has been confirmed by the Commission in the new text. It is not only an important recognition of the important role that newspaper publishers and other print media play in guaranteeing an objectively informed public and democracy but also a recognition that this debate on an updated Broadcasting Communication for the converging media landscape is not possible without including newspaper publishers who have established themselves as important and reliable content providers on all platforms of distribution.

Ex-ante test/ media pluralism

NDP relies on the Commission to introduce a market impact test which can successfully assess what would constitute a market distortion before it would damage the viability of newspaper publishers and other private media operators businesses. An ex-ante market test is essential in safeguarding media pluralism in Europe in the coming decades especially for new media services, as this is the market where public broadcasting organisations directly compete with publishers. NDP is of the opinion that member states should always take into account the available offers on the market, the impact on competition and the function that commercial parties like publishers fulfil, before deciding to financially support activities of public broadcasting organisations.

NDP favours a broad and coherent media policy. While determining the scope of the public service remit, the whole media landscape should be taken into account. NDP supports the view of the of the Netherlands Scientific Council for Government Policy (in Dutch called the WRR) on this matter that public broadcasting organisations should only be active within the functions that are not adequately realized by commercial parties. Commercial parties can serve the public interest as well as public broadcasting companies. Therefore the private, commercial sector of the media landscape is as important as the public sector. See WRR-publication Media Policy for the Digital Age:
<http://www.wrr.nl/english/content.jsp?objectid=4322>

Link between PSB programmes and other services

NDP would like to see a tight functional link between media services that are not programmes and a programme broadcasted by the public service media provider. NDP believes that PSB's can use new distribution channels including Internet but the content they deliver must be linked to television and radio programmes.

There should be an effective form of constraint on the publicly funded activities of the PSB's in order to limit negative market impact. In the Netherlands PSB's developed many services and experiments without (obvious) links to their tasks as PSB. Therefore NDP strongly supports the Commissions point of view on a clear and precise public service remit.

Overcompensation

Another concern of NDP is overcompensation. The volume and intensity of many activities of PSB's makes it very difficult for newspaper publishers to offer their customers new services on different platforms without endangering their financial and economic position. NDP is for that reason concerned about the removal of the unambiguous statement on Member States' obligation to provide for appropriate mechanisms to prevent over-compensation.

Amsterdam Protocol

NDP is pleased to note that the Commission has preserved the core of the Amsterdam Test/ market impact assessment to test significant new services' adherence to the Amsterdam Protocol. We nevertheless share some significant concerns with the European Newspaper Publishers' Association (ENPA), laid down in ENPA's response to this consultation. A few examples:

- Some of the detail about what could form part of the prior evaluation assessment impact on the market has been removed, e.g. "potential for commercial exploitation" and "potential effect on neighbouring markets" (par. 88)

- The assessment of what constitutes a significant new service now needs to be carried out by what is only now defined as an “independent” body from the management of the broadcaster. The first draft text required that it should be “independent” and normally “external” (par. 89)
- NDP is positive about the fact that pilot projects should be limited in time. But we would like this to be a stronger requirement, e.g. set the time limitation in writing from the beginning of consideration of the project with clearly defined objectives and time-limit of the project to be made publicly available before the start of the project, as well as an annual review for long-duration pilot projects (par. 90)
- The credibility of the test should be guaranteed. The new draft has deleted that the test should be “carried out in an independent manner, taking into account the above safeguards”. NDP emphasizes that the test must be carried out by an independent body in an independent way (par. 91).

Final remark

For the sake of completeness: NDP filed a complaint at the State Aid Registry of the European Commission (dated January 15 2009) on state aid to the Dutch Public Broadcasters under the (new) Media Act 2008.

Yours sincerely,



Drs. C.G.G. Spaan
Chairman of the Dutch Newspaper Publishers Association