

**SCARLET N.V. CONTRIBUTION
TO PUBLIC CONSULTATION
BROADCAST MARKET ANALYSIS**

18 FEBRUARY

NON CONFIDENTIAL

Scarlet N.V. welcomes the opportunity to be able to provide its observations regarding the proposals for decisions regarding the broadcast market analysis. Below we list our main observations regarding this market analysis.

Scarlet N.V. welcomes the regulators' proposals for regulatory remedies as set out in the draft broadcast market analysis. Scarlet N.V. is active in telephony and Internet services.

[Confidential]

To Scarlet N.V., the market circumstances it is confronted with as regards the commercialisation of these television services in the various cable television coverage areas, urgently require regulatory intervention as set out in the draft proposals. Indeed, without regulatory measures to address the dominant position of cable television operators in their franchise areas, alternative television network operators will continue to experience considerable shortcomings, hindering them to effectively enter the television market (see below).

The market is currently completely conditioned by the strongly dominant cable television operators. Cable television operators leverage heavily on their irreplicable competitive advantages in the commercialization of their analogue and/or digital TV services.

[Confidential]

In its activities of selling TV services, Scarlet N.V. remains however confronted with various disadvantages as compared to cable television operators, as a result of the latter's:

1. monopoly on the provision of analogue cable television services (providing it substantial competitive advantages in respect of connection of several TV sets in

the house (moreover, without the need for additional set-top-boxes, and generally without new specific in-house wiring)), and

2. commercial practices as applied in practice in the way both analogue and/or digital cable television services which are sold in attractive packages, that cannot be matched by alternative television operators.

Depending on the concrete final conditions of the proposed regulatory access obligations, Scarlet N.V. might be interested in exploring [Confidential] an analogue resale of cable television services to overcome several of its current handicaps.

[Confidential]

At the moment, Scarlet N.V. 's priority interest is focussed on the analogue cable television resale remedy. Nevertheless Scarlet N.V. understands the actual necessity, in the current market circumstances, for alternative broadband and television operators to be able to access

- o the cable television operators' digital television platform, and
- o the network to sell broadband services.

The real interest of the proposal would of course strongly depend on the exact qualitative and quantitative conditions of the offer to be imposed on the cable television operators. In that respect, the final decision should set out precise and detailed conditions including on crucial elements such as

- o clear rules for informing changes in the analogue cable television offer,
- o leaving sufficient time to alternative operators to negotiate the content rights,
- o prohibition to include exclusive television content in the analogue cable television offer, to avoid nullifying the effect of the regulatory remedies in practice,
- o price remedies that would take into account the current commercial practices of cable television operators, and would thus allow alternative television operators to actually match the cable television operators' offers. In that respect we believe that a retail minus approach can only be a regulation for a starting period. There should be switch to a full cost based access pricing as soon as possible. This cost based pricing should be part of the defined remedy, retail minus only being a transitory method in attendance.

It is indeed necessary to detail the measures and remedies to a maximum in order to ensure that they can be effectively implemented in a fast way. Time is a key element in this matter,

as the digitalisation of the market is progressing at rapid speed. The package of remedies also needs to contain sufficient control possibilities and mechanism so as to ensure that beneficiaries of access are treated on an equal basis as the retail arm of the cable television incumbent.

It will also be of key importance that the regulators will have a hand-on approach for the implementation of the measures in order to ensure the collaboration and diligent execution by the cable companies.

Without the proposed regulatory intervention, barriers to entry for alternative television providers will remain too high, and effective competition will not materialize in the television markets in Belgium.

Finally, Scarlet N.V. believes that as a result of the proposed remedies, consumers' interests will be promoted in respect of choice and price.

Scarlet N.V.'s thanks for the opportunity offered for it to express its view and hopes that the above points will be taken into account in the further evaluation of the future regulation on television.