

## Abstract

The Netherlands Competition Authority is frequently faced with the issues highlighted by the speakers on a very practical level.

In order to stimulate discussion, I have prepared a couple of slides to give you a brief overview of the Temporary Media mergers law of 2007 (TWMC). This law is I think an example of one of the ways in which multilevel analysis can be incorporated into media regulation (ref. van Kranenburg).

The Temporary Media merger law entered into force on 13 June 2007. The law prohibits media concentrations where the concentration would lead to marketshare (measured in media use rather than media ownership) of more than 35% in the newspaper market. Also forbidden are concentrations that lead to a combined media user share of greater than 90% spread over newspapers, television and radio. The TWMC replaces the former “cross-ownership rules” in the Media Law, which were seen as being too restrictive.

The TWMC test is incorporated into the NMa merger test, in line with the ‘one-stop shop’ policy. The TWMC was adopted with the intention of imposing a clear and objective threshold to assist in the preservation of plurality of media sources. This is different from the generic competition test which is imposed under the Competition Law, which checks for the creation or strengthening of economic dominance whereby competition is significantly reduced on the relevant market. The Commissariaat voor de media advises the NMa on the user-shares in the application of the TWMC. If the merger would exceed the thresholds set out in the TWMC it is automatically prohibited. Otherwise, the NMa proceeds with its normal significant reduction of competition test in the Competition Law.

The test has been applied three times (ref. slides).

## Discussion

- Does TWMC restrict effective competition in media markets?
- Is it possible to provide plurality through regulation? (and if so, at what level?)
- Does TWMC address media convergence issues, deter media convergence?
- Is TWMC an example of regulation from the public choice perspective or the public interest perspective (deregulation or re-regulation)?