



## • Notification of the provision of public electronic communications activities

### General explanation

#### For whom is this form intended?

This form is intended for all companies that:

- provide public electronic communications networks;
- provide public electronic communications services;
- establish or provide relevant facilities. (See Appendix 1 *Definitions and explanation* for the legal definitions.)

The Telecommunications Act imposes a notification obligation on all such companies. This form is used for notifying the OPTA Commission.

#### Why is notification obligatory?

The Telecommunications Act includes regulation of the markets for electronic communications. OPTA regulates compliance with the Telecommunications Act. Regulation includes defining markets and, if necessary, imposing obligations on providers with significant market power, which involves tariff regulation or the obligation to provide network access. In order to determine which parties are active in which markets and whether certain providers have specific rights and obligations, all providers and their activities must be notified to OPTA.

In the interest of proper enforcement of the Telecommunications Act, OPTA maintains a public register in which your name and the address of your registered offices will be listed. This register is available for perusal or can be viewed on our website: [www.opta.nl](http://www.opta.nl).

#### Regulatory fee

See page 2 for an explanation of how your fee for the regulatory costs will be determined for 2011.

#### What does OPTA do with this information?

Based on the information supplied regarding your activities, OPTA will register your company in one or more of the categories specified by law. The turnover information supplied will be used to determine your regulatory fee for 2011.

#### The notification procedure

- Complete the entire form, have it signed by an authorised representative of your company, and enclose an excerpt from the Chamber of Commerce Trade Registry (not older than one year).
- Send or fax the form and enclosures to: OPTA, P.O. Box 90420, 2509 LK, The Hague, fax number (070) 315 92 01.
- OPTA will assess the accuracy of the form and enclosures. If the legal requirements are satisfied, OPTA will register your company.
- You will be sent a notification of the registration as quickly as possible.
- Subsequently you will receive an invoice from OPTA for the one-off fee as well as the regulatory fee for 2011 if you are assigned to category 1 or 2.

#### Notification of modifications

It is important for OPTA to have the correct information. If the activities offered by your company change after notification, you must inform OPTA of this modification, using the form 'Modification or termination of the provision of public electronic communications activities'. This form can be downloaded on our website: [www.opta.nl](http://www.opta.nl).

#### Any questions?

- Telephone: Ms. E. van Kuijen (+31(0)70 - 315 92 54) or Ms. S. Hofman (+31(0)70 - 315 92 55) (Monday through Friday, 8:30 a.m. – 5:00 p.m.),
- Website: [www.opta.nl](http://www.opta.nl).

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### Regulatory fee

Category	Turnover limits	Fee OPTA regulation
1	Net turnover > 20 million euros	0.077% of the net turnover
2	2 million euros ≤ net turnover ≤ 20 million euros	€ 8,479.00
3	Net turnover < 2 million euros	Zero fee upon request

For the regulatory costs OPTA will charge a fee that may vary every year. This fee is based on your net turnover in the electronic communications sector. Based on the level of your net turnover, you will be assigned to one of the three categories listed above. The categories are based on the applicable limit amounts. This table shows the limit amounts for 2011.

Providers assigned to the first category are charged on the basis of a percentage of 0.077% of their net turnover. Providers in the second category are charged a flat fee of € 8,479.00. Providers in the third category do not contribute to the regulatory costs and are therefore eligible for a zero fee upon request.

The limit amounts, the percentage and the flat fee are determined each year by the Minister of Economic Affairs, Agriculture and Innovation. These are specified in the OPTA Fee Regulations 2011 ([www.opta.nl](http://www.opta.nl)).

#### What is net turnover?

The net turnover is the income from the supply of goods and services by the company of the legal entity, after deduction of discounts and such and the revenue taxes. OPTA applies the definition stipulated in Section 377, sixth sub-section of Book 2 of the Civil Code.

For the purpose of charging a turnover-related fee, OPTA must be informed about your net turnover each year. This is the net turnover over the calendar year preceding two years before the year of charge. The fee you are to pay for the year 2011 will therefore be based on the net turnover in the year 2009.

Not your entire net turnover is relevant. This concerns only the net turnover achieved from activities regulated by OPTA. More specifically, this is the net turnover achieved by providing services subject to the notification obligation by virtue of Section 2.1 of the Telecommunications Act, namely: the net turnover achieved by a provider from the supply in the Netherlands of public electronic communications services, public electronic communications networks and relevant facilities. An explanation of the relevant turnover can be found in Appendix 1 *Definitions and explanation*.

If you started your activities in 2009 and achieved no turnover in that year, you are assigned to category 3. Basically you can demonstrate this to OPTA by enclosing a recent excerpt from the Chamber of Commerce Trade Registry (not older than one year). In the following three situations, an excerpt from the Chamber of Commerce Trade Registry will not suffice and additional information must be supplied to determine the relevant category:

- Your company commenced its activities after 2009 and is continuing the electronic communications activity of a company that performed these activities in 2009.
- Your company commenced its activities after 2009 and was split off from a company that performed such activities in 2009.
- Your company commenced its activities after 2009 and was created through a merger with a company that performed such activities in 2009.

Consult the website [www.opta.nl](http://www.opta.nl) for Frequently Asked Questions regarding the system of fees.

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## Data

### 1 Company name

Notification by a company: the name according to the registration with the Chamber of Commerce; for a private individual: the individual's name; for other institutions (e.g. government organisations): the official name.

Department

Chamber of Commerce Trade  
Registry number

Name of contact person

The person OPTA can contact if it has any questions.

F  M

Position

Telephone and fax

E-mail

Correspondence address

Postal code, city and country

Office address

If different from correspondence address.

Postal code, city and country

Invoicing address

If different from postal address.

Postal code and city

Name of contact person for  
invoices

The person OPTA can contact if it has any financial questions.

F  M

Telephone

E-mail

Your payment reference code

The payment reference code that OPTA will include on invoices at your request.

Name of contact person for  
turnover data

The person OPTA can contact if it has any questions about the turnover data.

F  M

Telephone

E-mail

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## Provision of electronic communications services

*This is the transmission of signals via an electronic communications network.*

*See Appendix 1 for the definition of 'electronic communications service'.*

### 2 What service(s) do you provide?

*See Appendix 1 for a definition of 'fixed' as compared to 'mobile'; mark if applicable.*

- Internet access services
- Data services: narrowband access (< 128 Kb/s downstream)
- Data services: broadband access (128 Kb/s and higher downstream)
- Data services: SMS (Short Message Service)
- Data services: GPRS (General Packet Radio Service)
- Data services: UMTS (Universal Mobile Telecommunications System)
- Data services: MMS (Multimedia Messaging Service)
- Data services: Fax
- Data services: MPLS (Multi Protocol Label Switching)
- Data services: IP/VPN
- Data services: other, namely:  
\_\_\_\_\_
- \_\_\_\_\_
- Outgoing calls
- International roaming (outgoing and incoming calls)
- Retrieving voice mail
- Call transfer services
- Call termination: FTA (Fixed Terminating Access)
- Call termination: MTA (Mobile Terminating Access)
- Call termination: VOIP-in
- Call termination: calls to information numbers
- Call termination: other, namely:  
\_\_\_\_\_
- \_\_\_\_\_
- Access: access to a network for other providers
- Access: unbundled access
- Access: other, namely:  
\_\_\_\_\_
- \_\_\_\_\_
- Call establishment: VPN (Virtual Private Networks)
- Call establishment: CS (Carrier Selection)
- Call establishment: CPS (Carrier Preselection)
- Call establishment: VOIP-out
- Call establishment: other, namely:  
\_\_\_\_\_
- \_\_\_\_\_
- Transfer: local call transfer
- Transfer: interregional call transfer
- Transfer: transit
- Calling via information numbers with settlement via the operator
- Calling via information numbers with settlement via calling cards
- Distribution and transfer of broadcasting programmes (radio and television)
- Making radio frequencies available to third parties for the purpose of public electronic communications services
- Semaphony
- Telex
- Leased lines and other point-to-point connections
- Bitstream
- Web mail
- Other, namely:  
\_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

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**3 Does your company enter with its own name into contracts with end-users for the electronic communications services marked above?**

Yes  
 No  
 Other, namely:  
.....  
.....

**4 Is the company a re-seller in its own name of public electronic communications services from one or more other businesses?**

Yes  
*Indicate the names of the other businesses and an explanation of the relationships.*  
.....  
.....  
.....

No  
*Explain.*  
.....  
.....  
.....

**Provision of electronic communications network**

*See Appendix 1 for the definition of 'electronic communications network'.*

**5 Do you provide a public electronic communications network?**

Yes  
 NO, continue with question 7  
.....

**6 What type of public electronic communications network do you provide?**  
*Mark if applicable and explain the nature of the network if necessary.*

Fixed network with connection points for end-users  
 Fixed network without connection points for end-users  
 Mobile network with connection points for end-users  
 Mobile network without connection points for end-users  
 Satellite network with connection points for end-users  
 Satellite network without connection points for end-users

.....  
Explanation: .....

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**Interruption of the provision of services**

*An end-user is a private individual or business that purchases a public electronic communications service and does not provide these services or a network.*

*The law assigns certain obligations to providers of networks or services that are capable of selectively blocking or terminating connections with end-users.*

**7 Can you interrupt the provision of services to individual end-users of your service or network?**

- Yes
- No
- This differs per service or network, namely:
  - \_\_\_\_\_
  - \_\_\_\_\_
  - \_\_\_\_\_

**Relevant facilities**

**8 What relevant facilities do you construct or provide?**  
*See Appendix 1 for the definition of 'relevant facilities'.*

- Systems for conditional access  
*These are decoders for pay-per-view*
- Electronic programme guide  
*This does not require registration or notification; please mark for the purpose of information.*
- Other, namely:
  - \_\_\_\_\_

**Commencement of activities**

**9 Do you already provide electronic activities?**

- Yes, the commencement date was: \_\_\_\_\_
- No, the commencement date is: \_\_\_\_\_

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**Turnover data**

**10** The following summary explains which data should be supplied in your situation.

<p><b>Category 1</b></p>	<p>If you are assigned to category 1, you must supply either the turnover data as stated in your annual accounts for 2009 or a specified statement of your relevant turnover in 2009.</p> <p>In both cases, the data must be accompanied by an audit report. In the first case, you can use the audit report that is part of the annual accounts. In the second case, a separate audit report must be compiled. A model audit report is enclosed and is also available on the OPTA website (<a href="http://www.opta.nl">www.opta.nl</a>).</p>
<p><b>Category 2</b></p>	<p>Mentioning a single amount on the turnover details form will suffice in the case of those service providers belonging in Category 2. In this case your turnover statement need not be accompanied by any supporting evidence. However, you will have to state whether it is your relevant or total net turnover on the turnover details form. In addition, the Commission asks that any service providers that are required to lodge their annual accounts (including their profit and loss account) with the Chamber of Commerce in accordance with the provisions of Section 394 of the Civil Code, Vol. 2, supply a copy of them to it as well.</p>
<p><b>Category 3</b></p>	<p>If you are assigned to category 3, you must supply turnover data demonstrating to the Commission that your relevant turnover is below the lowest limit. You can do so by submitting the turnover data stated in the annual accounts for 2009 or by means of a specified statement of your relevant turnover in 2009 accompanied by an audit report. A model audit report is enclosed and is also available on the OPTA website (<a href="http://www.opta.nl">www.opta.nl</a>).</p>

Indicate on the following pages which category you are assigned to. You must also indicate the turnover level.

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Mark the category that applies to you:

**Category 1**

The undersigned herewith declares that the turnover of the company stated above (p. 3) was more than 20 million euros in 2009. The net turnover/relevant turnover as specified (*cross out if not applicable*) in the year 2009 amounted to:

€

• Write the amount in letters:

You must enclose the following data:

- A copy of the annual accounts indicating the amount of the net turnover, accompanied by the audit report on the annual accounts.
- or**
- A specified statement of your relevant turnover accompanied by a separate audit report. A model audit report is enclosed.

**Category 2** (your turnover amounts to EUR 2 million or more but is less than or equal to EUR 20 million)

In 2009 the

relevant turnover

total net turnover

of the above-mentioned company amounted to:

EUR

• Please state this amount here in words:

•

*Any service provider that is required to lodge its annual accounts with the Chamber of Commerce in accordance with the provisions of Section 394 of the Civil Code, Vol. 2, must also provide a copy to the Commission.*

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**Category 3**

The undersigned herewith declares that the turnover of the company stated above (p. 3) was less than 2 million euros in 2009. The net turnover/relevant turnover as specified (*cross out if not applicable*) in the year 2009 amounted to:

€

*Write the amount in letters:*

You must enclose the following data:

- A copy of the annual accounts indicating the amount of the net turnover.
- or*
- A specified statement of your relevant turnover accompanied by a separate audit report. A model audit report is enclosed.

If you started your activities after 2009 and achieved no turnover in that year, you are assigned to category 3. Basically you can demonstrate this to OPTA by enclosing a recent excerpt from the Chamber of Commerce Trade Registry (not older than one year). In the following three situations, an excerpt from the Chamber of Commerce Trade Registry will not suffice and additional information must be supplied to determine the relevant category:

- Your company commenced its activities after 2009 and is continuing the electronic communications activity of a company that performed these activities in 2009.
- Your company commenced its activities after 2009 and was split off from a company that performed such activities in 2009.
- Your company commenced its activities after 2009 and was created through a merger with a company that performed such activities in 2009.

You bear responsibility for supplying accurate data needed by the Commission in order to determine the fee. If the Commission needs additional information, you will be requested to supply this. If you have indicated that you are assigned to category 2, the Commission may as yet ask you to submit the relevant turnover data.

Based on the data you submit, the Commission will determine your regulatory fee for 2011 in a decision.

If a provider does not (sufficiently) comply with the request to supply turnover data, the Commission is authorised to estimate the turnover. In that case, the Commission will charge a fee based on its estimation.

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**Do not forget to enclose**

**11 Which appendices to enclose?**

*Mark the appendices below that are applicable to you and collect these.*

**Company:**

- A copy of the registration in the trade registry, the register of associations or the register of foundations.

**Please note:** This excerpt may not be more than one year old and must be signed by an authorised representative of the Chamber of Commerce. **This excerpt must reflect your authorisation to sign.** If it does not, enclose authorisation that has been signed by the person who is authorised to sign according to the excerpt.

**Private individual:**

- A copy of a valid passport or European identity card, and
- a copy of the population register.

Please note: This excerpt may not be more than one year old.

**Other organisations / government organisations:**

- A statement signed by the director or head on the organisation's stationery.

**Companies, private individuals and other organisations / government organisations:**

- (Copy) annual accounts
- Specified statement of turnover
- Audit report
- Other, namely:

\_\_\_\_\_

**Total number of appendices** \_\_\_\_\_ **items**

**Declaration**

*I herewith declare that all information has been submitted correctly, fully and truthfully.*

**Place and date**

**Name**

*In block letters.*

\_\_\_\_\_

**Signature**

*Please note! This form must be signed by an authorised individual*

\_\_\_\_\_

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## Appendix 1 Definitions and explanation

### Definitions

The definitions of (public) electronic communications services, (public) electronic communications networks and relevant facilities from Section 1.1 of Article 1 of the Telecommunications Act are as follows:

#### For question 4:

*e. electronic communications network: transmission systems, including the switching or routing equipment and other resources, that make it possible to transmit signals via cables, radio waves, optical or other electro-magnetic means, including satellite networks, fixed and mobile terrestrial networks, electricity networks, in so far as these are used to transmit signals, and networks for radio and television broadcasting and cable television networks, irrespective of the nature of the information that is transmitted.*

#### For question 2:

*f. electronic communications service: service normally provided for a fee that entirely or primarily consists of transmitting signals via electronic communications networks, including telecommunications services and transmission services on networks used for broadcasting, but not the service in which content is supplied or edited by means of transmission via electronic communications networks and services. This does not include the services of the information society as described in Section 1 of the Notification Guideline that do not entirely or primarily consist of transmitting signals via electronic communications networks.*

*g. public electronic communications service: electronic communications service that is available to the public;*

*h. public electronic communications network: electronic communications network that is used entirely or primarily for the provision of public electronic communication services, including a network intended for the distribution of programs in so far as this is done to the public;*

This means that an electronic communications network is public if it is used to provide public electronic communications services or if the network is used to provide (television) programmes to the public.

*i. providing a public electronic communications network: the construction, operation or management of an electronic communications network, or making it accessible;*

Based on the definition of electronic communications network, nearly every provider of a public electronic communications service is also a provider of a public electronic network because it uses transmission systems, including switching and routing equipment, for the supply of the public electronic communications service.

Providers of public electronic communication services who do not believe that they provide a public electronic network must indicate and explain this. In general, only the providers (re-sellers) of services provided by others, who enter into contracts with buyers in their own name, will be considered providers of public electronic communications services without their own electronic communications network. The provider is the party that controls network access and the management thereof; irrespective of who the owner is.

#### For question 8:

*j. related facilities: facility relevant to an electronic communications network or an electronic communication services that supports or makes possible the service or provision of services via that network, as well as systems for conditional access and electronic programme guides.*

The Commission assumes that relevant facilities, with the exception of systems for conditional access, will in general be provided by those who provide an electronic communications service or network.

#### For question 2: 'Mobile' as opposed to 'fixed'

Fixed entails: those services that the user uses from a fixed position, although relocation of that position is imaginable (e.g. wireless fidelity [Wifi], asymmetric digital subscriber line [ADSL]) and irrespective of whether the connection is fixed or wireless (e.g. wireless local loop [WLL]). 'Mobile electronic communication' entails: the mobile electronic communication in which a radio network is used and where communication by the end-user is possible while moving over large distances.

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#### **Relevant turnover**

Relevant turnover is the turnover achieved through the provision of public electronic communications services and public electronic communications networks and the provision of related facilities. These are the activities subject to the disclosure obligation (often referred to as registration obligation) under Section 2.1, sub-section 1 of the Telecommunications Act.

The relevant turnover from public electronic communications services and public electronic communications networks is the turnover achieved by providing services that consist of transmitting signals via electronic communications networks. It also pertains to services provided in public, meaning that they are generally supplied to third parties.

The relevant turnover from related facilities includes at least any turnover achieved through systems for conditional access for encrypted television programmes, electronic programme guides and aerial installation sites for broadcasting networks.

#### **Geographic limitation of the turnover**

Relevant turnover only includes turnover achieved in the Netherlands.

#### **Technology and mediums used**

The medium with which the service is provided is immaterial to determining the relevant turnover. It makes no difference whether turnover is achieved via fixed, wireless or mobile networks or connections or with networks or connections that make use of satellites. Also irrelevant is the nature of the fixed connections, e.g. copper, fibre-optic or coaxial. It also makes no difference whether the service involves voice, data or images.

#### **Wholesale/retail**

Both turnover achieved in a wholesale environment and turnover achieved in a retail environment are included in the relevant turnover. This means, for example, that turnover from the fee for terminating calls on the enterprise's own network and turnover from the fee for establishing the call are considered relevant turnover.

#### **Internal deliveries**

Turnover achieved from internal deliveries within the enterprise is not considered a relevant turnover.<sup>1</sup>

#### **Resale**

Turnover achieved through the resale of services supplied by other providers is not considered relevant turnover. Resale occurs if, after the sale there is no contractual relationship between the reseller and the buyer for the use of a service.

<sup>1)</sup> For additional information, see article 5b of the "Besluit van 5 december 2005, houdende wijziging van het Besluit vergoedingen Telecommunicatiewet in verband met de invoering van het verdeelsleutel op basis van omzet (Staatsblad 20 december 2005, nr. 651)"

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**Indicative summary**

The following summary is an indicative, non-exhaustive summary of activities that are considered in any event to be or not to be included in a relevant turnover.

In any event, turnover achieved through the following activities is relevant:	In any event, turnover achieved through the following activities is not relevant:
<ul style="list-style-type: none"> <li>• Internet access via dial-up (including diallers), xDSL, (broadcasting) cable and satellite.</li> <li>• Connection/ fixed subscription (including call bundles).</li> <li>• Outgoing calls.</li> <li>• International roaming (outgoing and incoming calls).</li> <li>• Data services (including SMS, GPRS, UMTS, MMS, Fax, etc).</li> <li>• Retrieving voice mail.</li> <li>• Call transfer services.</li> <li>• Call termination (including FTA, MTA, VOIP-in and delivery of calls to information numbers).</li> <li>• Access (including access to a network for other providers and unbundled access).</li> <li>• Call establishment (including VPN, CS, CPS, VOIP-out).</li> <li>• Transfer (including local call transfer, inter-regional call transfer and transit).</li> <li>• Calling via information numbers with settlement via the operator or calling cards.</li> <li>• Distribution and transfer of broadcasting programmes (radio and television).</li> <li>• Making radio frequencies available to third parties for the purpose of public electronic communications services.</li> <li>• Semaphony.</li> <li>• Telex.</li> <li>• Leased lines and other point-to-point connections.</li> <li>• Bitstream.</li> <li>• Web mail.</li> </ul>	<ul style="list-style-type: none"> <li>• Sale of content information via electronic communications resources, such as via 0800 and 090x information numbers and via SMS.</li> <li>• Turnover pertaining to the content of programmes that are distributed via broadcasting (transmitter) networks.</li> <li>• Sale or rental of peripheral equipment.</li> <li>• Sale and rental of software.</li> <li>• Sale of hollow tube casings.</li> <li>• Web hosting.</li> </ul>

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## Appendix 2 Model audit report

**To: Principal**

### Auditor's report

#### *Assignment*

In accordance with your order, we have compiled and verified the enclosed statement, certified by us, regarding the relevant turnover in 2009 from activities subject to the disclosure obligation under Section 2.1, sub-section 1 of the Telecommunications Act of \_\_\_\_\_

\_\_\_\_\_

This statement has been compiled under the responsibility of the management. It is our responsibility to issue an audit report regarding these data.

#### *Activities*

Our audit was conducted in accordance with auditing standards generally accepted in the Netherlands. These standards require that we plan and perform our audit in order to reasonably ascertain that the specification of net turnover is free of material misstatement. An audit includes a study by means of partial perusal of relevant data. In our view, our audit forms a sound basis for our opinion.

#### *Judgement*

It is our belief that the specification of data regarding the relevant turnover is accurate.

Place, date

Signature