

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY
CONCERNING ANTENNA SYSTEMS FOR MOBILE
TELECOMMUNICATION NOT REQUIRING PLANNING PERMISSION
13 February 2002

THE PARTIES:

(1) The State Secretary for Transport, Public Works and Water Management, Mrs J.M. de Vries, and the Minister for Housing, Regional Planning and the Environment, Mr J.P. Pronk, acting in this matter in their capacity as representatives of the State of the Netherlands, whose seat is in The Hague, and in their capacity as administrative authority, hereinafter "Central Government";

and

(2) the Association of Netherlands Municipalities, registered in The Hague, represented in this matter by [], hereinafter "the VNG";

and

(3) the private company with limited liability Ben Nederland B.V., registered in The Hague, represented in this matter by [];

(4) the public company Dutchtone N.V., registered in The Hague, represented in this matter by [];

(5) the private company with limited liability KPN Mobile The Netherlands B.V., registered in The Hague, represented in this matter by [];

(6) the public company Vodafone N.V., registered in Maastricht, represented in this matter by [];

(7) the private company with limited liability Telfort Mobiel B.V., registered in Southeast Amsterdam, represented in this matter by [];

the Parties 3 to 7 hereinafter each individually called "Operator"; and
the Parties 3 to 7 jointly called "the Operators"; and
one or more Parties from the aforementioned group of Parties 3 to 7 hereinafter called "the Operator(s) (concerned)";

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY

WHEREAS:

- (a) each of the Operators under 3 to 7 has been granted one or more IMT 2000 (UMTS), GSM and/or DCS-1800 licence(s) for the use of space in the spectrum for mobile telecommunication purposes;
- (b) the use of these licences requires each of the Operators to develop a network of antenna systems in the Netherlands;
- (c) a significant number of the antenna systems required will be five metres or less in height and will be erected on structures at a height of nine metres or more above ground level;
- (d) the State Secretary for Transport, Public Works and Water Management has produced the National Antenna Policy document (TK 2000 - 2001, 27 561, no. 2), according to which the aim of National Antenna Policy is to encourage and facilitate the provision of sufficient antenna sites within clear public health, environment and safety frameworks;
- (e) the responsibilities and interests of the Parties involved in the National Antenna Policy are described in the National Antenna Policy document;
- (f) according to the National Antenna Policy document, the Cabinet has the policy intention subject to conditions to include antenna systems five metres or less in height on the list of structures for which no planning permission is required within the meaning of the Housing Act;
- (g) one of the conditions under which the exemption from planning permission referred to under (f) can be achieved is that first a memorandum of understanding be concluded between the VNG, the Operators and Central Government with the content referred to in the National Antenna Policy document;
- (h) the arrangements contained within the memorandum of understanding can be replaced in the future as a whole or in part by regulatory measures under public law;
- (i) the Dutch competition authority has indicated by letter of 10 January 2002 that it cannot see any competition law objections to adoption of the Memorandum of understanding;
- (j) Central Government shall notify the European Commission

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY of the regulation in this Memorandum of understanding concerning exposure limits under Directive 98/34/EC;

(k) in the context of the implementation of the National Antenna Policy the Parties shall endeavour to cooperate as effectively as possible in the area of communication with and information supply to third parties, and in particular to residents, concerning everything connected with antenna systems for mobile telecommunication. The VNG shall take responsibility for communication with and information supply to municipalities for the development of municipal antenna policy. The Parties shall make further agreements about this communication and information supply and set them down in a working document. This working document shall for example consider job demarcation, responsibilities and coordination between the Parties and also a complaints procedure for third parties.

HAVE AGREED ON THE FOLLOWING:

Article 1 Definitions

1.1 General public: persons who by virtue of legislation and regulations are not subject to an appropriate maximum level of exposure to electromagnetic fields in the context of the pursuit of their business or profession;

1.2 Antenna system: an Antenna system not requiring planning permission or an Antenna system requiring planning permission;

1.3 Resident: a natural person who has a real right or tenancy agreement in respect of a dwelling, not being a Service dwelling, that forms part of a Residential building;

1.4 Memorandum of understanding: this agreement;

1.5 Service dwelling: a dwelling that an employer has placed at the disposal of an employee in view of the nature of the work to be done by him and the occupation of which counts among the obligations arising for the employee from his employment;

1.6 Owner: the owner of or the holder of a restricted right to an immovable property on which or against which it is intended to install an Antenna system;

1.7 Building contour: the roof surface of a building at roof covering level and also the outside of the outside

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY
walls, below the level of the respective roof surface, in so far
as there are rooms with readily accessible places located
immediately adjoining;

1.8 Party: each of the Parties to this Memorandum of
understanding;

1.9 Installation plan: a plan drawn up jointly by the
Operator(s), inclusive of annexes, as referred to in Article 3;

1.10 Reference levels: the values contained in Table 2
of Annex III of the European Recommendation of 12 July 1999 on
the limitation of exposure of the general public to
electromagnetic fields of 0 Hz - 300 GHz (1999/519/EC) with due
regard for Annex IV (Annex 5);

1.11 Enumerator: independently certified administrative
agency, charged under Article 5 with the dispatch, receipt,
counting and retention of the reply forms;

1.12 Antenna system not
requiring planning
permission: an antenna system for mobile telecommunication,
consisting of antenna(s), boom, wiring and equipment or
technical box(es) with associated fixing construction, which
under the Housing Act may be erected without planning
permission;

1.13 Antenna system requiring
planning permission: an antenna system for mobile
telecommunication, consisting of antenna(s), boom, wiring and
equipment or technical box(es) with associated fixing
construction, for the erection of which planning permission is
required under the Housing Act;

1.14 Readily accessible place: any place to which the
General public has access, including dwellings, roof terraces,
balconies and similar places belonging to dwellings;

1.15 Working day: a calendar day other than a Saturday,
Sunday or a generally recognised public holiday or a day
considered equivalent to a general public holiday under the
General Extension of Time-Limits Act;

1.16 Residential building: a building of which at least one
dwelling, not being a Service dwelling, forms part and in
respect of which dwelling a natural person has a tenancy
agreement;

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY

1.17 Search area: an area within which according to the planning of the Operator concerned an Antenna system will be installed as referred to in Article 3.3.2.

Article 2 Objective

2.1 The aim of this Memorandum of understanding is to develop and implement the National Antenna Policy and to set out the conditions under which antenna systems five metres or less in height are included on the list of structures for which no planning permission is required within the meaning of the Housing Act. The conditions referred to above in any event relate to:

- (i) the best possible cooperation between the Operators;
- (ii) the drawing up of an Installation plan and its discussion with the municipalities;
- (iii) the visual blending of Antenna systems not requiring planning permission;
- (iv) the right of consent of Residents to the installation of an Antenna system not requiring planning permission on a Residential building and the assent procedure employed; and
- (v) the exposure limits of antenna systems not requiring planning permission.

2.2 Central Government shall endeavour to promote the setting down in legislation and regulations of what is regulated in the Memorandum of understanding, whether or not in amended form.

Article 3 Installation plan

3.1 The Operator(s) who are intending to install Antenna systems not requiring planning permission shall draw up a single joint Installation plan with regard to the municipality on whose land the Operators concerned wish to install (one or more) Antenna systems not requiring planning permission, on the basis of the planning of each Operator concerned. The Installation plan shall relate to the whole of the municipality's land, unless the municipality concerned consents in writing to the use of different Installation plans relating to different parts of its land. The Operators shall agree to the following when drawing up the Installation plan:

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY

(i) Each of the Operators wishing to install (a) new Antenna system(s) not requiring planning permission shall notify the other Operators accordingly in writing and ask them to take part in the drawing up of a joint Installation plan; and

(ii) if within a period of 20 working days following the date of receipt of the notification referred to under (i) an Operator fails to make known in writing that it wishes to take part in the drawing up of the Installation plan, then for the period that the Installation plan is valid no new Antenna systems not requiring planning permission may be installed by the Operator(s) concerned in the area covered by the Installation plan, having regard to the provisions of Article 3.4.6.

3.2 The purpose of the Installation plan is to inform the municipality concerned, with a view to the meeting(s) to be held between the municipality and the Operators concerned under this Memorandum of understanding, about the areas in which the Operators concerned wish to install Antenna systems not requiring planning permission during the period of the plan and also, where appropriate, to make a reasonable case to the municipality for the need to install planned Antenna systems not requiring planning permission on Residential buildings on its land. For the sake of the municipalities' overview of the total number of Antenna systems, existing and planned Antenna systems shall be shown at the same time in the Installation plan.

3.3 An Installation plan shall meet the following requirements:

3.3.1 The Installation plan shall contain a sufficiently clear map of the area to which it relates. Existing Antenna systems not requiring planning permission (on the basis of a previous Installation plan for example) shall be marked as such on this map. In addition, the exact locations of planned Antenna systems not requiring planning permission shall as far as possible be marked as such. The Installation plan shall also contain at least the particulars referred to in Annex 1 for each Antenna system not requiring planning permission. The locations of existing and planned Antennas requiring planning permission shall be marked as such in the Installation plan for information;

3.3.2 Only in so far as the exact location of a planned Antenna system not requiring planning permission cannot reasonably yet be known to the Operator whose Antenna system not requiring planning permission is concerned at the time the Installation plan is drawn up, the area in which this Antenna

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY system not requiring planning permission is to be installed according to the planning of the Operator concerned shall be indicated on the map referred to in Article 3.3.1 by means of a Search area. A Search area shall cover the smallest possible area, with a view to the number of antenna systems already present and also the expected capacity reasonably required in the planning period referred to in Article 3.3.5, within which the planned Antenna system not requiring planning permission must be installed within structural constraints in accordance with the radio engineering plans for mobile telecommunication of the Operator concerned. For information the areas in which planned Antenna systems requiring planning permission are to be installed shall be shown in the Installation plan by means of the smallest possible Search areas, in so far as their exact location cannot reasonably be known to the Operators concerned at the time the Installation plan is drawn up. Whether the Antenna system concerned is one not requiring planning permission or one requiring planning permission shall be indicated as far as possible for each Search area;

3.3.3 In so far as provision is made in the Installation plan for installation of a planned Antenna system not requiring planning permission on or against a Residential building, the Operator whose Antenna system not requiring planning permission is concerned shall make a reasonable case to the municipality in the Installation plan that installation of this Antenna system not requiring planning permission on or against the Residential building concerned is necessary. Installation of a planned Antenna system not requiring planning permission on or against a Residential building shall then only be considered necessary if:

(i) no alternative location for the installation of the Antenna system not requiring planning permission with which sufficient coverage, capacity and quality of the network of the Operator concerned can be obtained is present, so that installation on or against a Residential building is unavoidable. This includes a situation in which the Owners of the surrounding locations eligible are not prepared to accept installation of the Antenna system not requiring planning permission on or against their location for a reasonable consideration; or

(ii) installation of an Antenna system not requiring planning permission on or against a Residential building leads to installation of fewer antenna systems in total.

The need for installation of a planned Antenna system not requiring planning permission on or against a Residential building shall be substantiated by the Operator concerned in the

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY
Installation plan. If the need exists for the reason given in this Article under (i), this substantiation shall in any event consist of the particulars relating to the Antenna system not requiring planning permission concerned referred to in Annex 2 and also, where applicable, information about the obstacles to installation of the Antenna system not requiring planning permission on or against alternative locations that are not Residential buildings. If the need exists for the reason given in this Article under (ii), this substantiation shall in any event consist of information about the total number of Antenna systems to be installed and also the reasons why and the amount by which this total number is reduced through installation of the Antenna system not requiring planning permission on or against a Residential building. In so far as there is provision in the Installation plan for installation of a planned Antenna system not requiring planning permission in a Search area, erection of this Antenna system not requiring planning permission within this Search area shall only take place on or against a Residential building subject to the provisions of Article 3.6;

3.3.4 In the Installation plan there shall be as much provision as possible, subject to the provisions in this regard in or in pursuance of the Telecommunications Act, for shared use of antenna sites by the Operators concerned, as referred to in the Telecommunications Act;

3.3.5 The Installation plan shall apply for a period agreed in writing between the Operators concerned and the respective municipality; if the Operators concerned and the municipality are unable to reach agreement on the period, the Installation plan shall apply for a period of one year; and

3.3.6 The Installation plan shall contain the postal addresses of the Operators concerned. A central postal address shall also be given. Notices to the Operators concerned under this Article can in any event be sent by the municipality to this central postal address.

3.4 a. Before one or more Antenna systems not requiring planning permission are erected on the land of a municipality, the Operators concerned shall send the Installation plan to the respective municipality by post with acknowledgement of receipt. These Operators shall apply the procedure laid down in Articles 3.4.1 to 3.4.7 with regard to the Installation plan, subject to the provisions of Articles 3.1 to 3.3.

b. The VNG shall recommend to its members that the procedure laid down in Articles 3.4.1 to 3.4.7, subject to the provisions

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY of Articles 3.1 to 3.3, be used by municipalities with regard to Installation plans.

3.4.1 Within 15 working days of the date of receipt of the Installation plan by the respective municipality, the municipality shall notify the Operators concerned by post with acknowledgement of receipt whether it wishes to discuss the Installation plan it has received with these Operators. If the municipality notifies the Operators concerned that it does not wish to discuss the Installation plan with these Operators or if the municipality has not sent the Operators concerned notification within 15 working days of the date of receipt of the Installation plan that it wishes to discuss the Installation plan with these Operators, the Installation plan shall be regarded as final.

3.4.2 If the municipality has notified the Operators concerned in time that it wishes to discuss the Installation plan with these Operators, the Operators concerned and the municipality shall discuss the Installation plan within 30 working days of its date of receipt. Departure from this deadline is possible if the Operators concerned and the municipality set a different period for discussion of the Installation plan by mutual agreement. The municipality and the Operators concerned shall as far as possible appoint permanent contacts for discussion of the Installation plan.

3.4.3 In the discussions the Operators concerned shall if required give a detailed explanation of the Installation plan, the Operators concerned and the municipality shall for example discuss more specific locations within any Search areas contained in the Installation plan in which Antenna systems not requiring planning permission may be installed, the municipality shall make known its wishes regarding the locations for planned Antenna systems not requiring planning permission and it shall bring up possible problem locations with the Operators concerned. The Operators concerned and the municipality shall endeavour to reach agreement about the locations for installation of Antenna systems not requiring planning permission and also, where relevant, about the need for installation of Antenna systems not requiring planning permission on or against Residential buildings as referred to in Article 3.3.3. If the Operators concerned and the municipality have reached agreement on the content of the Installation plan following discussion and any revision of the Installation plan, they shall set it down in writing and the Installation plan, as modified where applicable, shall be regarded as final.

3.4.4 If the Operators concerned and the municipality have not

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY reached (full) agreement on the content of the Installation plan in the discussions referred to in Article 3.4.3, the municipality can ask the Operators concerned during these discussions to hold a second round of discussions. The second round of discussions shall take place within ten working days of the discussions referred to in Article 3.4.3. Departure from this deadline is possible if the Operators concerned and the municipality set a different deadline by mutual agreement. If the municipality does not ask for a second round of discussions to be held during the discussions referred to in Article 3.4.3, the Installation plan, as modified where applicable in the respects on which the Operators concerned and the municipality have reached agreement, shall be regarded as final on the first working day following the discussions referred to in Article 3.4.3, including the respects on which no agreement has been reached.

3.4.5 In the second round of discussions referred to in Article 3.4.4 the Operators concerned and the municipality shall endeavour to reach as much agreement as possible on the content of the Installation plan. On the first working day following the second round of discussions, the Installation plan shall, modified where applicable in the respects on which the Operators concerned and the municipality have reached agreement in the discussions referred to in Articles 3.4.3 and 3.4.4, but including the respects on which no agreement has been reached, be regarded as final.

3.4.6 If during the validity of an Installation plan amendment of the Installation plan in force is necessary, the Operator whose Antenna system not requiring planning permission is concerned shall on behalf of the Operators concerned send a modified Installation plan to the respective municipality by post with acknowledgement of receipt. If the change in the Installation plan is marginal in nature (that is if the change affects fewer than ten per cent of the total number of the Antenna systems indicated by the Operator concerned in the Installation plan), the Operator whose Antenna system not requiring planning permission is concerned can simply send the respective municipality the change in the Installation plan instead of an amended Installation plan. The procedure of Article 3.4.1 to 3.4.7 shall be followed with regard to the amended Installation plan or the change in the Installation plan, unless the Operator whose Antenna system not requiring planning permission is concerned and the municipality agree otherwise. Only the Operator whose Antenna system not requiring planning permission it concerns shall be present at the discussions referred to in Articles 3.4.3 and 3.4.4.

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY

3.4.7 If at the time this Memorandum of understanding comes into effect the Operators have already submitted a joint plan to a municipality with regard to the installation of Antenna systems not requiring planning permission, the Operators and the respective municipality can agree a transition period in writing not exceeding 1 (one) year in which this plan counts as an Installation plan. The Operators and the municipality can also agree that the aforementioned Installation plan must be regarded as final during the transition period. If a transition period is agreed, the Operators shall make timely provision for a new Installation plan to be adopted no later than at the time of the expiry of the transition period in accordance with the provisions of this Article.

3.5 Each of the Operators concerned undertakes to change an Installation plan as little as possible during its validity. This does not affect each of the Operators concerned being free in respect of the other Operators to change an Installation plan during its validity, in so far as this change concerns the Antenna system(s) of this Operator concerned.

3.6 Each of the Operators undertakes only to erect Antenna systems not requiring planning permission within (a part of) the area of a municipality if an Installation plan in accordance with the provisions of this Article has been finalised with regard to (that part of) the area of this municipality. Erection of Antenna systems not requiring planning permission shall take place in accordance with the content of the respective final Installation plan, which includes the provision that Antenna systems not requiring planning permission shall only be erected on or against Residential buildings if a reasonable case for their need has been made in the finalised Installation plan in accordance with the provisions of Article 3.3.3. If the area in which an Antenna system not requiring planning permission is to be installed is indicated in the finalised Installation plan by means of a Search area, erection of this Antenna system not requiring planning permission within this Search area shall only take place on or against a Residential building if a reasonable case has been made for the need to install this Antenna system not requiring planning permission on or against the exact location of the respective Residential building in the manner specified in this Article. The obligations arising from this paragraph do not affect the other obligations of the Operators arising from this Memorandum of understanding, including the obligations arising from Articles 4, 5 and 6.

Article 4 Visual blending

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY

4.1 Each of the Operators shall meet objective requirements to be set by municipalities with regard to the colour scheme of Antenna systems not requiring planning permission yet to be erected in the following cases:

4.1.1 deviation from the standard colour of the technical box in special cases;

4.1.2 the colour of the visible part of the cabling and cable ducts, in order to make them as inconspicuous as possible; and

4.1.3 deviation from the standard colour of outside wall antennas in order to make them as inconspicuous as possible;

in so far as these requirements have been brought to the attention of the Operators by the respective municipality in accordance with the provisions of Article 4.2.

4.2 If a municipality wishes to lay down requirements as referred to in Article 4.1, it shall send the requirements to the Operators by letter with acknowledgement of receipt not later than at the time of the sending of a notification as referred to in Article 3.4.1.

4.3 If a municipality wishes to change requirements made known by it in pursuance of Article 4.2, it shall send the amended requirements to the Operators by letter with acknowledgement of receipt. From the date on which the validity of the Installation plan applicable at the time as referred to in Article 3.3.5 lapses, each of the Operators shall meet the amended requirements with regard to Antenna systems not requiring planning permission still to be erected at that time, in so far as these amended requirements are in accordance with the provisions of Article 4.1.

Article 5 Right of consent of Residents

5.1 None of the Operators shall install new Antenna systems not requiring planning permission on or against Residential buildings without first obtaining the consent of the Residents of the respective Residential building to the installation in accordance with the assent procedure specified in this Article 5. If after consent has been obtained there is a change in number or person of the Residents, this shall make no difference to the consent obtained. Consent of Residents does not have to be obtained for maintenance, repair, modification and replacement work in respect of Antenna systems.

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY

5.2 The consent of the Residents of a Residential building to the installation of an Antenna system not requiring planning permission on or against a Residential building shall only be sought by the Operator(s) concerned once it (they) has (have) asked the Owner(s) of the Residential building for permission to install the Antenna system(s) not requiring planning permission on the Residential building. The Operators concerned shall endeavour to ensure that the Owner(s) of the Residential building cooperate(s) with the assent procedure referred to in this Article. The Operators shall make every effort to seek consent jointly in respect of a Residential building. An Operator seeking consent in respect of a Residential building shall bring this to the attention of the other Operators in writing and ask them to make known in writing whether they wish to take part in the respective consent process. An Operator shall make known in writing that it wishes to take part in the consent process within a period of 20 working days of receipt of this request. An assent procedure in respect of a Residential building can only, except in special circumstances, be initiated twice per calendar year.

5.3 The Resident(s) of the Residential building to which the assent procedure relates shall be sent a request for consent with regard to the Antenna system(s) not requiring planning permission to be installed on or against the Residential building by post or by means of delivery to the private address. Irrespective of the number of Residents living at that private address, just one (1) reply form as referred to in Article 5.3.5 can be returned for each private address and therefore just one (1) request for consent shall be sent. Notwithstanding the responsibility of the Operators concerned for proper observance of the assent procedure referred to in this Article 5, including the content of the request for consent, dispatch of the requests for consent shall be undertaken by the Enumerator. The request for consent shall consist of:

5.3.1 a covering letter, containing in any event a telephone number for the Operators concerned for questions and complaints with regard to (the installation of) the Antenna system(s) not requiring planning permission, accompanied by a description of the assent procedure and complaints procedure, which is laid out in accordance with the model appended as Annex 3 to this Memorandum of understanding. A working group to be set up by the Parties can adopt changes to this model of a communicative nature in writing;

5.3.2 general information about the National Antenna Policy for example and also the health aspects associated with Antenna systems not requiring planning permission;

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY

5.3.3 an indication of the number of Antenna systems not requiring planning permission to which the request for consent relates and also a most accurate possible indication of the place on or against the Residential building where it is intended to erect the Antenna system(s) not requiring planning permission and the intended date of erection;

5.3.4 an indication of the period within which the Antenna system(s) not requiring planning permission to which the request for consent relates must be erected; and

5.3.5 one (1) reply form that is laid out in accordance with the model appended as Annex 4 to this Memorandum of understanding. A working group to be set up by the Parties can adopt changes to this model of a communicative nature in writing.

5.4 Reply forms on which both the reply "yes" and the reply "no" have been given to the question as to whether consent is given and also reply forms on which neither of the two replies has been entered in the place intended for them shall be regarded as not having been validly returned. Nor shall reply forms received after the closing date for their return or reply forms that have not been signed be regarded as having been validly returned. In addition, reply forms on which the reply "no" has been given to the question as to whether consent is expressly given for the counting and retention of the reply form and also reply forms on which both the reply "yes" and the reply "no" or neither of the two replies have been given to this question shall not be regarded as having been validly returned.

5.5 Counting of the reply forms returned shall take place on the first working day following the closing date (which shall be 20 working days following the date of the letter referred to in Article 5.3.1) on which the reply forms must have been received. The Enumerator shall count the number of reply forms validly returned on which the reply "yes" has been given to the question as to whether consent is given and the number of reply forms validly returned on which the reply "no" has been given to this question. Any mention on the reply form of the sender's objection to the Antenna system(s) not requiring planning permission and the nature of this objection and also any suggestions as to how the objection can be met is not important for determining whether the reply "yes" or the reply "no" has been given to this question.

5.6 Consent of the Residents of a Residential building to installation of the Antenna system(s) not requiring planning

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY permission to which the assent procedure relates is obtained unless the count referred to in Article 5.5 shows that the absolute majority of the reply forms distributed and validly returned has the reply "no" given to the question as to whether consent is given. The Enumerator shall record the result of the count in a report and also whether the result of the count means that consent has been obtained. The report shall be made available to every Resident who requests it. The Enumerator shall also send the report to the Owner(s) of the Residential building, to the Operators concerned and to the National Antenna Bureau. The result of the count shall be made known to the Residents by the Enumerator within ten working days of the date of the count. The reply forms returned shall be retained by the Enumerator for at least four years from the date of the count.

5.7 If the result of the count means that consent has not been obtained, the Operators concerned shall be entitled within 30 working days of the date of the announcement of the result by the Enumerator to inform the Residents in writing that there will be a second consent process, this second consent process serving to obtain consent through the removal of objections of Residents made known in the first consent process. A request for consent as referred to in Article 5.3 shall be enclosed with this announcement, with the exception of the general information referred to in Article 5.3.2. The closing date for receipt of reply forms shall be 20 working days following the date of the aforementioned announcement.

5.8 Counting of the reply forms returned and also determination and announcement of the result of the count and retention of the reply forms shall take place in accordance with the provisions of Articles 5.4, 5.5 and 5.6.

5.9 If the Operators concerned have not erected the Antenna system(s) not requiring planning permission to which consent obtained relates within the period referred to in Article 5.3.4, with a maximum of four years following the closing date for the return of reply forms, the consent given shall lapse and consent of the Residents of the Residential building for erection of the respective Antenna system(s) not requiring planning permission shall have to be obtained again.

5.10 The Operators shall make a commitment to Central Government that within six months of the entry into force of this Memorandum of understanding, or if this is not reasonably possible as soon as possible thereafter, they shall arrange for a number of trials with public counting of the reply forms returned to be conducted, these trials satisfying the following conditions:

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY

5.10.1 the counting of reply forms returned as referred to in Article 5.5 shall take place as far as possible in the respective Residential building or, if this is not possible, in a place close to the Residential building. The count shall be accessible to the Residents and other interested parties;

5.10.2 public counting as referred to in Article 5.10.1 shall take place with regard to at least one (1) Antenna system not requiring planning permission of each of the Operators that is going to be installed on or against a Residential building; and

5.10.3 the trials shall be spread across the country with regard to a number of Residential buildings of different types.

The Operators shall announce the results of these trials to Central Government in the next evaluation referred to in Article 7. On the basis of these results Central Government and the Operators shall decide whether to hold more detailed trials or on the procedure to be followed for counting reply forms returned.

5.11 The Parties are assuming that the assent procedure laid down in this Article is subject to the Personal Data Protection Act (Bulletin of Acts and Decrees 2000, 302), which came into force on 1 September 2001 (Bulletin of Acts and Decrees 2001, 337). The Parties shall observe the provisions of this Act. The Parties agree that the Operators concerned shall be regarded as responsible within the meaning of Article 1 (d) of the Personal Data Protection Act.

Article 6 Exposure limits

6.1 Each of the Operators shall ensure that the exposure of members of the General public to electromagnetic fields originating from Antenna systems not requiring planning permission installed by the respective Operator is as low as reasonably possible.

6.2 Each of the Operators shall ensure that the Reference levels in Readily accessible places on account of electromagnetic fields originating from Antenna systems not requiring planning permission installed by the respective Operator are in any event not exceeded.

6.3 In order to ensure that the Reference levels are not exceeded in dwellings, each of the Operators shall ensure that the Reference levels are not exceeded at the site of the

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY
Building contour either, in so far as there is a dwelling
directly adjoining it.

6.4 In order to ensure that the Reference levels are not exceeded in Readily accessible places, not being dwellings, in buildings, each of the Operators shall ensure that the Reference levels are not exceeded at the site of the Building contour either, in so far as there is a Readily accessible place, not being a dwelling, directly adjoining it. If the provisions of the previous sentence are not met, the Operator concerned shall at the request of the Transport, Public Works and Water Management Inspectorate, Telecoms Division, make a test report available within 15 working days showing that the Reference levels in the Readily accessible places, not being dwellings in buildings, are not exceeded.

6.5 With regard to Readily accessible places and Building contours where electromagnetic fields originating from Antenna systems not requiring planning permission that have been installed by different Operators are present, the Operators concerned shall ensure that in these Readily accessible places and Building contours in any event the Reference levels are not exceeded on account of the electromagnetic fields originating from the respective Antenna systems not requiring planning permission. If and as soon as a Reference level in a Readily accessible place or Building contour as referred to in the previous sentence is exceeded, each of the Operators concerned is obliged in cooperation with the other Operators concerned to ensure that the situation is remedied, subject to the provisions of Articles 6.3 and 6.4.

6.6 In order to meet the obligations arising from Articles 6.2 to 6.5, each of the Operators shall employ a quality procedure which ensures that:

6.6.1 when determining the strength of the respective electromagnetic fields account is taken of the local conditions and of other sources of electromagnetic fields; and

6.6.2 the measuring and/or calculating instructions, as contained in prEN50383, or a similar measuring and/or calculating method, are used.

6.7 Each quarter of each calendar year, for the first time in the fourth quarter of 2002, each of the Operators shall provide the particulars referred to in Annex 6 with regard to the Antenna systems not requiring planning permission installed by the respective Operator to the Transport, Public Works and Water Management Inspectorate, Telecoms Division.

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY

6.8 The Transport, Public Works and Water Management Inspectorate, Telecoms Division, shall ensure that the contours of the Reference levels for each Antenna system not requiring planning permission installed are available to all for consultation on the web site of the National Antenna Bureau. The particulars referred to in Article 6.7 shall be used for the determination of the contours.

6.9 In order to give the Transport, Public Works and Water Management Inspectorate, Telecoms Division, the opportunity to determine accurately whether the Reference levels referred to in Articles 6.2 to 6.5 are being exceeded, the Operator concerned shall at the request of the Transport, Public Works and Water Management Inspectorate, Telecoms Division, in addition to the particulars referred to in Article 6.7, supply all other relevant particulars for the respective individual Antenna system not requiring planning permission installed by the Operator concerned.

6.10 Needless to say the Parties note that the findings of the Transport, Public Works and Water Management Inspectorate, Telecoms Division, in pursuance of Article 6.9, shall be public.

Article 7 Evaluation

The Parties shall evaluate the operation of this Memorandum of understanding annually, for the first time within six months of its entry into force. In any event the first two times the evaluation shall in particular consider the quality of the substantiation in Installation plans of the need to install Antenna systems not requiring planning permission on or against Residential buildings, the effectiveness of the deadlines contained in Article 3 and also the arrangement for obtaining consent from Residents, including the procedure for the counting of reply forms, the frequency with which Residents make their consent contingent upon a financial concession, the responsibility for the determination of the result of the count and also the possibility of distributing more than one reply form per private address in special cases (such as care homes).

Article 8 Suspensive conditions and entry into force

8.1 This Memorandum of understanding shall take effect, with the exception of the provisions of Articles 2.2, 3, 4, 5, 6 and 7, as soon as it has been signed by all the Parties. The provisions of Articles 2.2, 3, 4, 5 and 7 of this Memorandum of

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY
understanding shall take effect as laid down in Article 8.3. The provisions of Article 6 of this Memorandum of understanding shall take effect as laid down in Article 8.4.

8.2 In pursuance of Directive 98/34/EC Central Government shall notify the European Commission of the content of this Memorandum of understanding as soon as possible. The Parties undertake to adapt this Memorandum of understanding as far as necessary to the comments made in the notification procedure, in order to ensure that this Memorandum of understanding is not inconsistent with the EC Treaty and the European regulatory framework based upon it.

8.3 The provisions of Articles 2.2, 3, 4, 5, and 7 shall take effect under the suspensive condition of entry into force of the order in council by which no planning permission is required under the Housing Act for the erection of antenna systems five metres or less in height.

8.4 The provisions of Article 6 shall take effect under the suspensive conditions of:

(i) completion in full of the notification procedure to the European Commission in pursuance of Directive 98/34/EC, including standstill period, or the written notice of Central Government to the Parties that this suspensive condition is lapsing; and

(ii) entry into force of the order in council by which no planning permission is required under the Housing Act for the erection of antenna systems five metres or less in height.

Article 9 Duration and termination

9.1 Except in the case of earlier termination under the paragraphs below, this Memorandum of understanding shall in any event end on 31 December 2012. If this Memorandum of understanding is still in force as a whole or in part on 1 January 2011, the Parties shall from this date consult on the desirability of renewing this Memorandum of understanding.

9.2 This Memorandum of understanding shall end if and as soon as legislation or regulations take effect by which the arrangements contained within Articles 3, 4, 5 and 6, whether or not in amended form, are replaced. If legislation or regulations take effect by which the arrangements contained within Articles 3, 4, 5 and 6, whether or not in amended form, are only partly replaced, only the corresponding part of the arrangements

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY contained within Articles 3, 4, 5 and 6 shall end.

9.3 Premature termination of this Memorandum of understanding by an Operator shall not be possible without the consent in writing of Central Government, except as provided for in Article 9.7. Premature termination of this Memorandum of understanding by the VNG shall not be possible without the consent of Central Government. Central Government shall have the option, following consultation with the Operators and the VNG, of terminating this Memorandum of understanding prematurely with a reasonable notice period, which in any event shall be no longer than one year.

9.4 Dissolution of this Memorandum of understanding shall not be possible. This Memorandum of understanding shall end by operation of the law with regard to an Operator if and as soon as this Operator is no longer the holder of a licence for the use of space in the spectrum for the provision of mobile telecommunication services.

9.5 The Parties shall, if and as soon as legislation or regulations as referred to in Article 9.2 take effect or it is clear that and if such legislation or regulations shall (may) take effect, at the written request of one or more Parties, consult with one another to discuss the consequences of this entry into force for this Memorandum of understanding and, if they consider this desirable, to agree changes in this Memorandum of understanding.

9.6 If:

(i) the results of the evaluation referred to in Article 7;

(ii) the adjustments required under Article 8.2;

(iii) a departure of the regulation referred to in Articles 8.3 and 8.4 under (ii) from that which the Parties had in mind on the conclusion of this Memorandum of understanding as is evident from the draft text of the respective order in council and the explanation thereof appended to this Memorandum of understanding as Annex 7; or

(iv) the legislation or regulations referred to in Article 9.2;

lead to consequences of such nature that the Parties may not according to the standards of reasonableness and fairness expect unchanged maintenance of this Memorandum of understanding from one another, this Memorandum of understanding shall at the

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY
written request of one or more parties be changed by mutual agreement between the Parties in order to meet the said consequences. Consequences as referred to here may be at issue for example if the legislation or regulations referred to in Article 9.2 lead to an unreasonable and substantial aggravation of their task for the Operators.

9.7 If the consultation referred to in Article 9.6 does not lead to agreement regarding the changing of this Memorandum of understanding within six months of receipt of a written request for consultation, the Operators shall be able, provided it is by written notice to Central Government by the ordinary majority of the Operators together, to terminate this Memorandum of understanding. In the event of such termination the commitment of the Parties to this Memorandum of understanding shall end at the moment that legislation or regulations take effect that replace this Memorandum of understanding or as soon as Central Government notifies the other Parties in writing that it is not planning to introduce replacement legislation or regulations. If such legislation or regulations have not taken effect within 18 months of the date of notice to terminate, the commitment of the Parties to this Memorandum of understanding shall end by operation of the law.

9.8 If a third party acquires a licence for the use of space in the spectrum for the provision of mobile telecommunication services and can make use of this licence, without this third party becoming a party to this Memorandum of understanding or in some other way being bound by similar obligations as arise for the Operators from this Memorandum of understanding, each of the Parties shall be entitled to give notice in writing to terminate this Memorandum of understanding with immediate effect, unless Central Government proposes such a change to the Memorandum of understanding that the obligations for the Operators from this Memorandum of understanding are similar to the obligations by which the third party is bound.

Article 10 Assignment of rights and obligations

10.1 Assignment by Central Government and the VNG of their rights and obligations arising from this Memorandum of understanding shall not be possible without the written consent of the other Parties. Assignment by an Operator of its rights and obligations arising from this Memorandum of understanding is not possible without the written consent of Central Government, this consent not being refused on unreasonable grounds. Consent shall not be withheld by Central Government if an Operator assigns its rights and obligations arising from this Memorandum

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY of understanding to a third party to which the respective Operator also assigns its licence(s) for the use of space in the spectrum for the provision of mobile telecommunication services, with regard to which third party the provisions of Article 10.2 have been met.

10.2 Each of the Operators shall make the undertaking towards Central Government, if and as soon as the Operator assigns its licence(s) for the use of space in the spectrum for the provision of mobile telecommunication services to a third party, on pain of a fine that is not open to moderation of 4,500,000 euros payable to Central Government, without prejudice to the other contractual and statutory rights of Central Government, including the right to stipulate fulfilment and/or compensation, from this third party, in part as an irrevocable third-party clause for the benefit of Central Government:

10.2.1 that the third party shall be party to this Memorandum of understanding, whereby the third party shall not (arrange to) install or use any Antenna systems not requiring planning permission before it has become party to this Memorandum of understanding; and

10.2.2 the obligation for (a) successor licensee(s) to, in part as an irrevocable third party clause for the benefit of Central Government, stipulate that the obligations referred to in these Articles 10.2.1 and 10.2.2 are imposed in the same way on (a) successor licensee(s) on pain of the aforementioned fine payable to Central Government.

The Operator shall bring the clause to the attention of Central Government as soon as it has been made.

10.3 Each of the Operators shall guarantee to Central Government and the VNG that it shall not make any use of an Antenna system not requiring planning permission of a third party for the purpose of the use of space in the spectrum for the provision of mobile telecommunication services on the basis of the licence(s) to this effect, unless this third party discharges the obligations that would arise for the Operator from this Memorandum of understanding under Articles 3, 4, 5 and 6 if the respective Antenna system not requiring planning permission were to be installed by this Operator itself or the Operator nonetheless discharges these obligations before taking the respective Antenna system(s) into use.

10.4 If and as soon as Central Government on the basis of a change in the provisions of the Telecommunications Act regarding the granting and the consent for the assignment of a licence for

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY
the use of space in the spectrum for mobile telecommunication purposes can attach the regulation that the new licensee shall not (arrange to) install or use any Antenna systems not requiring planning permission before it has become party to this Memorandum of understanding or can otherwise be bound by similar obligations, the penalty clause referred to in Article 10.2 shall lapse. Central Government shall endeavour to bring about a change as referred to above.

Article 11 Non-fulfilment by Operators

11.1 If an Operator installs or arranges for an Antenna system not requiring planning permission to be installed with regard to which any obligation referred to in Article 3 or 4 has not been fulfilled and the Operator concerned has been notified accordingly by a municipality by letter with acknowledgement of receipt, the Operator concerned shall forfeit to the respective municipality a penalty not open to moderation of 500 euros per working day or part thereof (counting from one working day following receipt of the said letter) that the Operator remains in default of fulfilment of the obligations arising from Article 3 or 4, with a maximum of 25,000 euros, unless the marginal nature of the obligation that has not been fulfilled does not justify imposition of this penalty (in full). If the Operator does after all fulfil the obligations arising from Article 3 or 4, the penalty forfeited shall lapse. This penalty clause does not affect the other contractual and statutory rights of Central Government and/or the VNG and/or the municipalities, including the right to fulfilment and/or compensation.

11.2 If an Operator installs or arranges for an Antenna system not requiring planning permission to be installed with regard to which any obligation referred to in Article 5 has not been fulfilled and the respective Operator has been notified accordingly by Central Government by letter with acknowledgement of receipt, the respective Operator shall forfeit to Central Government a penalty not open to moderation of 500 euros per working day or part thereof (counting from one working day following receipt of the said letter) that the Operator remains in default of fulfilment of the obligations arising from Article 5, with a maximum of 25,000 euros, unless the marginal nature of the obligation that has not been fulfilled does not justify imposition of this penalty (in full). If the Operator does after all fulfil the obligations arising from Article 5, the penalty forfeited shall lapse. This penalty clause does not affect the other contractual and statutory rights of Central Government and/or the VNG and/or the municipalities, including the right to

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY
fulfilment and/or compensation.

11.3 Notwithstanding the statutory and contractual rights of the VNG, every municipality, as if it were party to this Memorandum of understanding, without the intervention of the VNG, shall be irrevocably entitled to demand fulfilment by the Operator(s) in and out of court of the obligations that rest with the Operator(s) by virtue of Articles 3, 4, 10.3 and 11.1 of this Memorandum of understanding and/or to demand compensation from the Operator(s). A municipality shall not however have this right with respect to Operator(s) if the respective municipality is in default with respect to the respective Operators with the compliance with the procedure that has to be followed by the municipality with respect to the Operator(s) by virtue of this Memorandum of understanding.

11.4 The VNG shall not be liable for damage that an Operator suffers as a consequence of the way in which the municipalities implement the procedures referred to in Articles 3 and 4 or as a consequence of other actions of the municipalities that have an impact on the installation of Antenna systems not requiring planning permission by the Operator.

Article 12 Accession of new licensees

The Parties recognise that in the future more or other interested parties may exist for the use of Antenna systems than the Operators. The Parties agree irrevocably and unconditionally that such new interested parties shall be able to become party to this Memorandum of understanding. Central Government shall ensure that the new interested parties also actually accede to this Memorandum of understanding. Once the interested party (parties) has (have) given Central Government notice of its (their) wish to accede, accession shall take place by the sending of this wish to the other Parties.

Article 13 No joint and several liability of Operators

The Operators shall not be jointly and severally liable for fulfilment of their obligations arising from this Memorandum of understanding and shall not therefore be responsible for the actions of another Operator.

Article 14 Applicable law; competent court

14.1 This Memorandum of understanding and further agreements

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY that are the consequence of this Memorandum of understanding shall be governed by the law of the Netherlands.

14.2 Any disputes arising between the Parties as a result of this Memorandum of understanding and also disputes as a result of further agreements that are the consequence of this Memorandum of understanding shall be submitted to the competent court in Rotterdam, such except for disputes with regard to the shared use of antenna sites in respect of which the rules which shall apply between the Parties involved in the dispute can be set by virtue of the Telecommunications Act.

Article 15 Other provisions

15.1 This Memorandum of understanding can only be supplemented or amended by a written document that has been signed by all the Parties. This supplement or amendment shall form an indissoluble part of the Memorandum of understanding.

15.2 The annexes to this Memorandum of understanding form an integral part of the Memorandum of understanding. In the event of inconsistency between the provisions of the annexes and the other provisions of this Memorandum of understanding, the other provisions of this Memorandum of understanding shall prevail.

15.3 In the event that one or more provisions of this Memorandum of understanding should turn out to be wholly or partially inconsistent with the law, not binding or void, the other provisions of this Memorandum of understanding shall continue to exist and the Parties shall consult with one another as soon as possible with a view to replacing the provision(s) concerned with valid provisions which as far as possible are in keeping with the provisions of the provision(s) concerned.

15.4 Notifications that have to be made to one of the Parties under this Memorandum of understanding shall, except in the case referred to in Article 3.3.6, be addressed as follows:

15.4.1 with regard to Central Government:
The State Secretary for Transport, Public Works and Water
Management
Plesmanweg 1-6
2597 JG DEN HAAG;

15.4.2 with regard to the VNG:
The Chairman of the Association of Netherlands Municipalities
Nassaulaan 12
2514 JS DEN HAAG;

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY

15.4.3 with regard to party 3:

Ben Nederland B.V.
Rijswijkseweg 60
2516 EH DEN HAAG;

15.4.4 with regard to party 4:

Dutchtone N.V.
Groenhovenstraat 2
2596 HT DEN HAAG;

15.4.5 with regard to party 5:

KPN Mobiel The Netherlands B.V.
Wilhelmina van Pruisenweg 52
2592 AN DEN HAAG;

15.4.6 with regard to party 6:

Vodafone N.V.
Avenue Ceramique 300
6221 KX MAASTRICHT;

15.4.7 with regard to party 7:

Telfort Mobiel B.V.
Haaksbergweg 75
1101 BR AMSTERDAM-ZUIDOOST.

Eight copies of this Memorandum of understanding have been drawn up and signed.

The State Secretary for Transport,
Housing, Regional
Public Works and Water Management
and the Environment
(jointly on behalf of the State the Netherlands)
on behalf of the State the
Netherlands)

The Minister for
Planning
(jointly

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY

Association of Netherlands Municipalities
B.V.

Ben Nederland

Dutchtone N.V. KPN Mobile The Netherlands B.V.

Vodafone N.V. Telfort Mobiel B.V.

Annex 1

1. Particulars of location

Post code and address:

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY

x, y coordinates:

Operator site number:

Residential building / not a Residential building:

2. Operator Name

3. Site particulars

Antenna system not requiring planning permission / Antenna system requiring planning permission:

4. Planned installation date

Annex 2

1. Purpose of Antenna system not requiring planning permission

Function that the Antenna system not requiring planning permission will fulfil within the network:

2. Search area

The Search area within which the Residential building is located:

3. Alternative locations

Radio engineering simulation of the impact of installation of the Antenna system not requiring planning permission on alternative locations that are not Residential buildings and also radio engineering simulation of the impact on surrounding existing Antenna systems. This information shall be supplied to the municipality by each of the Operators concerned in confidence and shall be treated in confidence by the municipality.

Annex 3

Half the population of the Netherlands now has a mobile telephone. This is set to rise still further. There is a growing need for wireless communication networks. A wireless network is typically made up of send/receive systems with associated antennas. To develop a covering network in the Netherlands Central Government and the various operators have agreed that

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY subject to conditions the operators can install one or several antenna system(s) on residential buildings. One of these conditions is that the operator can only install an antenna system on a residential building if the majority of the residents have not voted against it. This annex gives a description of the procedure for voting on the installation of an antenna system on the building in which you live and also a brief description of the complaints procedure.

Assent procedure

1. Reply form

Residents can use the reply form to make known whether or not they consent to the installation of an antenna system on or against the building in which they live. If the resident indicates on the reply form that they do not consent to the installation, the resident can say what his/her objection is to the installation. The resident can also use the reply form to make suggestions as to how the operator can meet the objection. The reply form is enclosed with this letter. Just one vote can be cast per private address.

2. First consent process

The reply form completed by the resident must be received by [name and address of Enumerator] by not later than [20 working days following the date of the request for consent]. Reply forms on which more than one response has been entered and reply forms that have not been signed will not be counted. Nor will reply forms on which no consent is given for counting and retention of the reply form count.

The counting of the reply forms returned will take place on [the first working day following the closing date for return of the reply forms]. [The Enumerator] will count the number of valid reply forms on which the reply "yes" has been entered and the number of valid reply forms on which the reply "no" has been entered.

Consent to the installation of the antenna system(s) is obtained unless the count shows that the majority of the reply forms distributed has been validly returned with the reply "no" on them. [The Enumerator] records the result of the count in a report. [The Enumerator] also records whether the result of the count means that consent has been obtained. The report is made available to every resident who requests it in writing. The result of the count will be made known to you by [the Enumerator] not later than [10 working days following the date of the count]. If after consent has been obtained there is a change in number or person of the Residents, this will not

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY
affect the consent obtained.

3. Second consent process

If no consent has been obtained in the first consent process, [name of Operator(s) concerned] can for [30 working days following the date of the announcement of the result by the Enumerator] make known to you in writing that there will be a second consent process. A request for consent will again be enclosed with this communication, with the exception of the general information. The second assent procedure will proceed in exactly the same way as the first. The result of the second assent procedure will be final. No more than two assent procedures may be held per year.

4. Lapsing of consent

If consent has been obtained, the Operators concerned are entitled to install an (the) antenna system(s). However, if these antenna system(s) have not been installed within four years, the consent granted lapses and the consent of the residents of the building will have to be obtained again for installation of the antenna system in question.

5. Complaints procedure

Queries and complaints can be submitted to [name of Operator(s)]. Complaints will in principle be handled within five working days of receipt. If more than five working days are needed for the handling of a complaint, you will receive notification of this stating the period within which the complaint will be handled.

6. Retention of the reply forms returned

The reply forms returned will be retained by the Enumerator for at least four years following the date of the count. The purpose of retaining the reply forms returned is to make a recount possible.

Annex 4

To the residents of:
[Street name and house number
post code and place]

REPLY FORM

Do you consent to the installation of an (the) antenna system(s) referred to in the enclosed letter on or against the building in which you live (mark one answer)?

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY

Yes

No

If not, why not?

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

Suggestions as to how your objection can be met if you have marked the answer "no":

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

Do you hereby expressly give permission for the counting of this reply form and for its retention for a period of not less than four years from the date of counting by the Enumerator?

Yes

No

NB: If you do not answer "yes" your vote will not count when the votes are counted.

The result of the voting will be announced not later than on [date 10 working days following the count]. Please mark the box below with a cross if you would also like to receive a report of

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY
the count.

(

Name:

.....
.....

Initial(s):

.....
.....

Date:

Signature:

.....
.....

Important: This reply form must be signed and must be received at the address below by not later than [date: 20 working days following the date of the letter referred to in Article 5.3.1 or 5.7 of the Memorandum of understanding (second consent process)]:

[name and postal address of the Enumerator]

Annex 5

Reference levels

Table 2 of Annex III of the European Recommendation of 12 July 1999 on the limitation of exposure of the general public to electromagnetic fields (0 Hz -300 GHz) (1999/519/EC).

Reference levels for electric, magnetic and electromagnetic fields (0 Hz - 300 GHz, unperturbed rms values)

Frequency range

E-field strength

(V/m)

H-field strength

(A/m)

B-field

(μ T)

Equivalent

power density

for plane waves

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY

Seq (W/m²)

0-1 Hz

-

3.2 ×10 000

4 ×10 000

-

1-8 Hz

10 000

3.2 ×10 000/f²

4 ×10 000 /f²

-

8-25 Hz

10 000

4 000/f

5 000/f

-

0.025-0.8 kHz

250/f

4/f

5/f

-

0.8-3 kHz

250/f

5

6.25

-

3-150 kHz

87

5

6.25

-

0.15-1 MHz

87

0.73/f

0.92/f

-

1-10 MHz

87/f^{1/2}

0.73/f

0.92/f

-

10-400 MHz

28

0.073

0.092

2

400-2 000 MHz

1.375 f^{1/2}

0.0037 f^{1/2}

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY

0.0046 f1/2
f/200
2-300 GHz
61
0.16
0.20
10

Notes:

1. f as indicated in the frequency range column.
2. For frequencies between 100 kHz and 10 GHz Seq,E2, H2 and B2 are to be averaged over any six-minute period.
3. For frequencies exceeding 10 GHz Seq,E2, H2 and B2 must be averaged over any $68/f1.05$ -minute period (f in GHz).
4. No E-field value is provided for frequencies <1 Hz, which are in fact static electric fields. Most people do not experience electric surface charges with an electric field strength of less than 25 kV/m as a nuisance. Spark discharges that cause stress or nuisance must be avoided.

Annex 6

Data to be supplied

The following data are reported for each TRX for the NFR:

Field no
Field name
Description
Field length
Data structure
1
ASSFREQ
Send frequency
11
99999.99999
2
XHZ
M for MHz, K for kHz
1
X
3
ADDFREQ
Receive frequency
11
99999.99999
4
YHZ

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY

M for MHz, K for kHz

1

X

5

RSA

radius of effective area (km)

5

99999

6

DATEPIU

date of putting into use

9

DD-MMM-YY

7

DATELMUT

date of last change

9

DD-MMM-YY

8

LOCATIONTX

sender location

20

X(20)

9

TXLONGI

coordinates OL sender

8

999X9999

10

TXLATI

coordinates NB sender

7

99X9999

11

POWER

power (erp.) of the sender in the main direction of radiation in dBW

5

S999.9

12

DIRNONDIRS

directional/non-directional sender (D or N)

1

X

13

AZIMUTHS

main direction of radiation sender

5

999.9

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY

14

BEAMWIDTHS

beam width (3dB) sender

6

999.99

15

AHEIGHTS

antenna height sender (metres)

6

9999.9

16

LOCATIONRX

Receiver location

20

X(20)

17

RXLONGI

coordinates OL receiver

8

999X9999

18

RXLATI

coordinates NB receiver

7

99X9999

19

DIRNONDIRR

directional/non-directional receiver (D or N)

1

X

20

AHEIGHTR

antenna height receiver (metres)

6

9999.9

21

AZIMUTHR

main direction of radiation receiver

5

999.9

22

BEAMWIDTHR

beam width (3dB) receiver

6

999.99

23

CHANNEL

channel number

3

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY
X (3)

The following data are required for each system (network):

24

CLASS

class of stations

2

X (2)

25

NOS

nature of service

2

X (2)

26

DOE

class of transmission

9

X (9)

27

POLARS

polarisation of the transmission

1

X

28

AGAINS

Antenna gain compared with half wave dipole

conf. Spec. IVW

29

ALENGTH

Length of the antenna in metres

conf. Spec. IVW

Annex 7

Draft text of order in council and explanation

I. Antenna systems not requiring planning permission

Definitions

Antenna system: a system consisting of an antenna, boom, wiring and equipment or technical box with associated fixing construction;

Boom: an antenna mast and/or fixing construction to which an antenna is fixed;

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY

Text to be inserted in first paragraph, Article 3 of the order in council:

f. the installation of an antenna system for mobile telecommunication purposes:

1. on or against a structure, provided:

a. the height of the boom, including the antenna, measured from the base does not exceed 0.5 m, and

b. the technical box has been installed walled-in, underground, on the ground or on a flat roof, on the understanding that in the latter two cases the technical box is no bigger than 0.2 m³ and in the latter case has been installed not less than 1 m behind the frontage line;

2. on or against a structure, provided:

a. the height of the boom, including the antenna, measured from the base does not exceed 5 m, on the understanding that if the boom is fixed to an outside wall of a building the height is measured from the intersection with the adjoining roof plane,

b. the boom, including the antenna, has been installed at a height of not less than 9 m from the ground,

c. the technical box has been installed walled-in, underground or on a flat roof and in this latter case has been installed as close as possible to the base of the boom but in any event 1 m behind the frontage alignment and is no bigger than 2 m³,

d. the wiring has been installed in or directly along the boom and also walled-in or in a cable duct which has been installed at a minimum distance of 1 m behind the frontage line, and

e. on installation on the roof of a building the boom has in so far as technically possible been installed on the roof on or by existing objects, or centrally, but in any event so that the distance from the base of the boom to the frontage of the building on which it has been installed is not less than 18 divided by the distance in metres between the ground and the base of the boom;

3. on or against an electricity pylon, road gantry, advertising pillar, lighting mast, windmill, siren mast, a chimney not forming part of a building or a boom requiring planning permission, provided:

a. the height of the boom, including the antenna, measured from the base does not exceed 5 m,

b. the antenna has been installed at a height of not less than 3 m from the ground, and

c. the technical box has been installed walled-in, underground or on the ground and in this latter case is no bigger than 2 m³;

g. the installation of an antenna system for other purposes, provided:

1. the boom, including the antenna, has been installed behind the frontage line, and

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY

2. in the case of installation of an antenna, not being a dish antenna, the height of the boom, including the antenna, measured from the base does not exceed 5 m, on the understanding that if the boom is fixed to an outside wall of a building, the height is measured from the intersection with the adjoining roof plane, and

3. in the case of installation of a dish antenna, the diameter of the antenna does not exceed 2 m and the height of the boom, including the antenna, measured from the base does not exceed 3 m;

Text to be inserted in third paragraph, under b, of Article 3:
b. the construction of a site with antenna system for the national C-2000 infrastructure for the mobile communication of non-commercial emergency services;

Explanation

Add to the Article by Article explanation of Article 3:

The exemption from planning permission of antenna systems for mobile telecommunication purposes (including so-called GSM antennas) stems from the Cabinet's National Antenna Policy document (Parliamentary Papers II, 2000-2001, 27 561, nos. 1 and 2). This Cabinet document takes as its starting point that such antenna systems to a height of 5 metres will be exempted from planning permission and that in the context of visual blending further constraints will be placed on the installation of these antenna systems by order in council. This part of the Cabinet document is developed in detail in Article 3, first paragraph, under f.

A three-way split has been made in the antenna systems for mobile telecommunication not requiring planning permission. Part 1 of f covers the so-called pico antennas. These are small antenna systems in which the antenna is usually no bigger than a substantial carton of milk. These antennas emit a low power on average and are usually fixed to outside walls of structures in shopping streets and other busy places. The height of these antennas, including the construction by which they are fixed to the outside wall of a building or a structure, has been maximised at 0.5 m. In addition to this dimensional requirement, constraints have been imposed with regard to the technical box. This technical box must be installed walled-in, underground, on a flat roof or on the ground. It should be noted that as far as visual blending is concerned this order can generally be said to be one of diminishing preference. In a legal sense though there is no question of a compulsory order. The initiator of the building plan can itself decide whether the technical box is

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY installed walled-in or underground or on the roof or on the ground. But if the technical box is not installed walled-in or underground, then it can be installed on a flat roof or on the ground provided its external volume is no greater than 0.2 m³. In the case of installation on a flat roof there is the additional requirement that the box must be installed a minimum of 1 metre from the frontage line. A technical box cannot be fixed to the outside wall of a building or to the outside of a structure without planning permission.

Article 3, first paragraph, under f, part 2, covers the larger antenna systems not requiring planning permission. According to the Cabinet's National Antenna Policy document, the height of the boom (antenna mast) to be installed, including the antenna(s) fixed to it, may not exceed 5 metres. For booms that are fixed to the outside wall of a building (such as the outside wall part of a lift construction) a different way of measuring applies. In this case there is no need to measure from the base of the boom but from the point where the adjoining roof plane crosses the boom. The part that extends above the roof may not exceed 5 metres in length. Below it a fixing construction can be installed along the outside wall.

To promote site sharing there is express permission for several antennas (with the necessary fixing construction) to be fixed to a boom. Several technical boxes can also be installed to go with them. In this connection see the comment contained in Section 1 ("Systematics of Articles 2, 3, 4, second paragraph, 5, second paragraph, and 6") of the Article by Article explanation about the fact that the types of structures have in each case been described in the singular and that this does not mean that someone may only erect a maximum of just one structure of such a type not requiring planning permission or requiring light planning permission. Provided the conditions laid down in this decree are met, several specimens not requiring planning permission or requiring light planning permission may be erected. The possibility of accumulation consequently applies to antennas and technical boxes but does not apply as such to booms. Several booms can in themselves be installed on a roof without planning permission, but joining booms together in such a way (stacking them one on top of the other) that two booms not requiring planning permission produce an antenna mast ten metres in height is not permitted.

Section f, part 2, under c, of the first paragraph of Article 3 again gives an order of (legally not compulsory) diminishing preference. If the technical box cannot be installed walled-in or underground, the requirement that applies is that the external volume of the box may be no greater than 2 m³ and that it is installed as close as possible to the boom. The thinking behind this stipulation is that the technical box should be

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY installed with care so that it remains out of sight as far as possible. This is because it is usually a large greyish metal box which as far as well-being is concerned is often experienced as burdensome.

The same goes for the wiring as for the technical boxes. It is in fact a necessary evil and the wiring must preferably remain out of sight as far as possible. The wiring must be fixed in or tightly against the boom and if the cable is not installed walled-in the wiring must be installed in a cable duct fixed to the outside wall. This cable duct must be installed at a distance of not less than three metres from the frontage line. In section f, part 2, under e, of the first paragraph of Article 3 requirements have been laid down with regard to the situation of the boom. This too is an order of diminishing preference.

Section f, part 3, concerns the installation of an antenna system for mobile telecommunication on or against a number of very specific structural types. The number of constraints for the installation of antenna systems is lower for these types of structures.

The entry into force of the exemption from planning permission for antenna systems for mobile telecommunication is partly dependent on the conclusion of a Memorandum of understanding between Central Government, the VNG and the providers of mobile telephony (operators). In this Memorandum of understanding agreements will for example be made about the involvement of residents in the installation of antennas on a building and about the submission by the operators to the municipal executive of an installation plan showing all the antenna sites. Consequently, this provision will presumably come into force through a separate Royal Decree.

Article 3, first paragraph, under g, contains the other category for antenna systems. This includes antennas that are used in exercising the right to freedom of speech as referred to in Article 10 of the convention on the protection of human rights and fundamental freedoms (antennas for private and hobby use). Antennas of taxi control centres and other business activities fall within this category.

Include explanation to Article 3, third paragraph, under b. Article 3, third paragraph, under b, covers the category of antenna systems for the C-2000 infrastructure. These are systems for the communication of the non-commercial emergency services. A site for such a system usually consists of a concrete slab or foundation, a technical structure and fencing. Installed on it is a boom with antennas. There are no further detailed

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY constraints made of these sites and antenna systems. The policy regarding the installation of these C-2000 antenna systems is otherwise geared to attention being paid to a good spatial blending of the sites with antenna systems in consultation with the municipal and provincial authorities.

II. Antenna system requiring light planning permission

Add text to the second paragraph, under b, of Article 5 (present b and c move down a place in my view and are renumbered c and d):

b. of the structure referred to in the preamble of parts f and g of the first paragraph of that Article: the height of the boom, including the antenna, measured from the base does not exceed 40 m;

III. Adaptation of Article 20 of the Regional Planning Decree

Insert text in Article 20, first paragraph, under d of the Regional Planning Decree (present subparagraphs d and e move down a place in my view and are renumbered e and g):

a. an antenna system in the built-up area, provided the height of the boom, including the antenna, measured from the base does not exceed 40 m;

Explanation

This change to the Regional Planning Decree results from the Cabinet's National Antenna Policy document (Parliamentary Papers II, 2000-2001, 27 561, nos. 1 and 2). This Cabinet document includes the intention for example to exempt antenna systems for mobile telecommunication to a height of 5 metres, subject to constraints to be determined, from planning permission requirements. For antenna systems to a height of 40 metres provision has been made for a light planning permission requirement. It has also been decided that antenna systems to a height of 40 metres that are built in the built-up area will be brought under the effect of Article 19, paragraph 3, of the Regional Planning Act. Provision has been made for this with the change to the Regional Planning Decree under discussion. For a definition of the term antenna system see Article 1 of the Structures not Requiring Planning Permission and Requiring Light Planning Permission and Well-being Criteria Decree. It states that the term antenna system is taken to mean a system consisting of an antenna, boom, wiring and equipment or

MEMORANDUM OF UNDERSTANDING UNDER THE NATIONAL ANTENNA POLICY
technical box with associated fixing construction. The term boom
is described there as an antenna mast and/or fixing construction
to which an antenna is fixed.

37