

St. Maarten Communication Union

March 3, 2015

Honorable prim Minister, Mr. Marcel F. Gumbs

Government Administration building

Phillipsburg, St. Maarten

Subject: comments to Mr. Eldert Louisa letter dated February 23, 2015

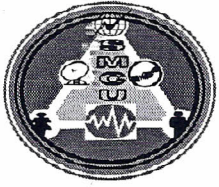
Dear Mr. Gumbs,

It is very imperative that we inform you that important information is missing from the letter dated February 23, 2015 coming from Mr. Eldert Louisa.

The allegations made by Mr. Alberto Arrindell are factual because:

1. The Telem Group has engaged the services of an overseas contractor for the implementation of the fiber to the Home project.
2. Blowing and terminating Fiber is nothing new for the company. Both, employees and a local contractors (formed by Telem ex- employees) have been blowing Fiber.
3. Mr. A. Arrindell was a former employee and blowing fiber was one of his tasks that he had to comply with almost on a daily basis
4. The lack of internal resources is due to the restructuring but the staff was promised that they will be the first to be contacted when work are available.
5. A local contractor Company (formed by ex employees) was in discussion with Telem for this same project
6. Our Technicians obtained certified training to blow and splice fiber and should have been giving the priority to execute this project. These mandatory trainings were done while Mr. Arrindell was still employed at Telem and he was one of the employees that had attended this certified training.

*P. O. Box 217
Phillipsburg, St. Maarten, Netherlands Antilles*



St. Maarten Communication Union

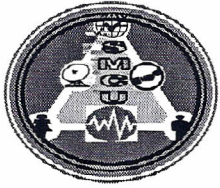
7. The overseas contractors are currently not teaching our technician nor can they work alone. This group of persons does not know our network.
8. No bid was done locally, how can an overseas contract be cheaper than our local contractor while the prices of the local contractors were not submitted to Telem?
9. No plans or drawings were given to these professionals. This means that greater mess is to be expected, will they be called again for a paid vacation to come and fix this?
10. The DSL back log is due to the lack of LENS that is needed to connect our subscribers. The back log is not because of lack of manpower or lack of knowledge from our technicians.
11. If Telem has a rate sheet for blowing fiber this should have been discussed with Mr. Arrindell or other local contractors to see if they were willing to blow the fiber for those rates
12. The method to be used for this project is the same as the one that has been used by our locals to blow fiber before.
13. This group of foreigners is using Telem's equipment and staff. Eg. They could not have traced the copper cable in Oyster Pond. (we can go on)
14. No bidding was done, but yet Mr. Louise mention comparison been made with prices.
15. It is impossible that the cost of this foreign contractor is cheaper. They are using Telem Trucks, equipment, gasoline, fuel, machinery, tools and staff.
16. our social plan states that " the SMTOC shall extend an invitation to bid on a preferential basis of inclusion in the group invited to bid, to said business to carry out work that is intended to be subcontracted"

All the above mentioned facts are the reality that we have been experiencing. It is common practice that Telem management hires outsiders and deny our own locals a fair chance. We went through a painful restructuring to down size the company, only to see now that positions are been filled with unqualified consultants.

We are awaiting the actions from your office on the above.

Kind regards,

*P. O. Box 217
Philipsburg, St. Maarten, Netherlands Antilles*



St. Maarten Communication Union

Mr. Ludson Evers

President

522-6921

Mr. Sherman Serastis

General Secretary

522-3200

Cc: Members of Parliament

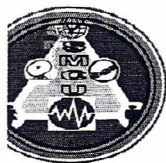
Council of Ministers

Ombudsman

Board of Directors

The management board of the SMTUC

*P. O. Box 217
Philipsburg, St. Maarten, Netherlands Antilles*



St. Maarten Communication Union

March 3, 2015

Immigration department/ labor department

Subject: Legal documentation

Dear Sir/Madam,

The union is requesting your intervention to immediately address a situation that is not lawful. The Telem Group has engaged in allowing overseas persons to carry out tasks and duties that can be executed by locals.

This is a group of Surinamese and they are in lack of the following:

1. Valid working permit
2. Valid registration of the Chamber of Commerce
3. Valid crib number

Based on our Social Plan the redundant employees who form a company should have been contacted to send in a bid for this job. (Blowing and/or Terminating Fiber)

The above was not the case and one of the employees has directed a letter to the Prime Minister for an investigation. A meeting was held between the board of the union and Ms. H. Etnel on Friday February 28, 2015.

It was concluded that management will

1. Stop the overseas contracts from working
2. Contact the local contractors for a bid
3. A fair chance will be given to the local contractors to bid

We understood that the Company will not open the bidding as it was mention in the meeting on Friday. It was said that the job was already given to the foreign contractors and the company won't be engaging in any bidding at this time.

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St. Maarten Communication Union

This is not acceptable for the union, seeing that these foreigners do not have any legal documents to work nor to carryout business on Country St. Maarten.

Awaiting action,

Kind regards,

Nataly Frans

Treasurer

Sherman Serastis

Assistant Secretary

Cc: The Honorable Prime Minister, Mr. Marcel F. Gums

Council of Ministers

Ombudsman

Members of parliament

Board of Director

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Soualiga Boulevard # 5
Pond Island, Philipsburg
St. Maarten, Dutch Caribbean
Tel: 1 721 546 0200
Fax: 1 721 543 0103

February 23, 2015

Prime Minister & Shareholder Representative
Sint Maarten Telecommunication Holding Company N.V.
The Honorable Mr. Marcel F. Gumbs
Government Administration Building
Clem Labega Square
Philipsburg, St. Maarten

Ref. #: CTO-007-15

Subject: Response to Mr. Alberto Arrindell Letter dated, February 17, 2015

Dear Mr. Gumbs:

We are most surprised by the letter of Mr. Alberto Arrindell to government addressing personal matters of concern that ought to have been discussed with TelEm Group management directly. We are additionally surprised by the allegations made and will endeavor to show how these allegations are not factual warranting the following response.

As stated by Mr. Arrindell, TelEm Group has indeed engaged the services an external contractor to assist our company with the implementation of a Fiber to the Home (FttH) roll-out project that requires input from professionals familiar with the scale and scope of this type of operation. Since the project is new to us and also considering the need to effect work in the absence of available skilled personnel and compounded lack of internal resources, we were fortunate to have available a team of professionals working with us.

Not only was this team available when required, but more importantly, the team is also available at a cheaper cost that other teams approached.

The factors necessitating employment of an outside team includes:

- Need for skilled professionals familiar with rolling out of Fiber to the Home projects.
- Transfer of knowledge from visiting contractors to our own technical staff.
- Consideration to a total of 85 businesses requiring connection to fiber.
- Completion of three (3) pilot Fiber to the Home (FttH) projects in the first quarter of 2015.
- Lack of internal resources – including manpower.
- Priority in directing local resources to meet a backlog of DSL applications waiting to be filled.

Important to mention that in 2014, TelEm Group completed its price list with quoted unit rates for contractors. These rates were accepted as presented including by Mr. Arrindell, except for one other contractor.



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In Mr. Arrindell's case, I am informed now that the rates were presumed to be rejected by Mr. Arrindell since he submitted on January 2nd, 2015 his own rates for splicing fiber on an unsigned document via a Staff member of TelEm Group. These submitted rates by Mr. Arrindell we could not be recognized as a formal and official quote because these are not the unit rates that are approved by the company.

Until Mr. Arrindell's letter of complaint to you, and my subsequent request for information into this matter, I had not been apprised of any difficulties, Mr. Arrindell experienced in providing a quote for his service(s), neither that he wished to speak with me to negotiation the unit rates we were willing to pay prospective contractors. Mr. Arrindell is familiar with our organization as a former employee and is also knowledgeable when it comes to the correct procedures to follow. I am therefore surprised that any grievances he had at this stage, were not brought to my attention.

The result of the local search for a team of professionals and my conclusion at the time is that none of the currently available contractors could sufficiently provide the capacity, experience or equipment necessary to meet the urgent demands required. This conclusion was also supported by the fact that local contractors and our own staff are lacking experience where it pertains to the roll out of FtH projects, since this has never been executed on St. Maarten before now.

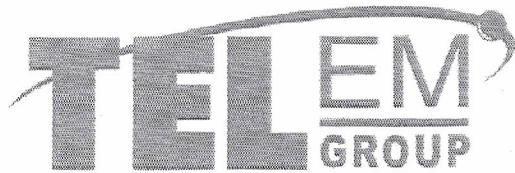
Mr. Arrindell, is currently registered as a local contractor and as a one-man business. Mr. Arrindell also receives daily referrals for work from TelEm Group that involves installation of house connections from the various zones of the outside plant department.

In 2014 a total of 59 invoices totaling approximately ANG 80.000 were submitted by Mr. Arrindell for services contracted for TelEm Group alone, excluding services from other parties. TelEm Group is stepping up efforts to connect more customers on the DSL platform and it is anticipated that the services of Mr. Arrindell will still be required.

Mr. Arrindell has incorrectly stated that TelEm Group has a hidden agenda by not contracting his service in providing fibre connections for our company, however, during the month of December 2014, when Mr. Arrindell was contacted by TelEm Group and requested carry out an emergency repair at a local hotel where splicing of a fiber was required, Mr. Arrindell informed at that time that he did not have the necessary splicing machine available and therefore could not provide the service required at the time.

The external contractor to whom Mr. Arindell refers was chosen from other external contractors based on availability, expertise and knowledge, familiarity with our working environment and affordable pricing. The external contractor also brought their own tools including: (Fusion splicers, OTDR, splicing tent, fiber tracer and others) which are required to execute the project.

In securing the external contractor to assist us, we were able to negotiate hourly rates which are tied to a minimum production number for fiber splicing compared to the regular splicing price per pair of fiber. Staff executing the fiber work also has current certification according to the best practices and the industry standard.



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We are not aware whether Mr. Arrindell has been able to acquire the necessary tools and equipment and whether Mr. Arrindell is up-to-date with his certification.

Indeed, we have impressed on our own personnel and also on the local contractors, that we are making it possible for knowledge transfer to take place while the external contractor is temporarily assisting us, since it will be to the long term benefit of TelEm Group if competent and skilled professionals are available locally and within the company, to continue with the FttH installations and roll-outs once the pilot projects are successfully completed.

It is also incumbent on the local contractors themselves to upgrade their own skills and certification to industry standard if our own standards of quality in the maintenance and operations of increasingly complex technology is to be attained.

We would have had no problem explaining these things to Mr. Arrindell had he granted us the courtesy of expressing his concerns directly to us.

We do not accept that we have wronged Mr. Arrindell in any way, since we have made use of his services when required and have paid the invoices he has submitted for these services.

It is our firm view that Mr. Arrindell was not properly equipped, nor did he have the required manpower to provide the urgent service we required and which was not properly available on St. Maarten, requiring the use of an external contractor on a temporary basis only.

I trust the above explanation will provide additional insight into the complaint presented to you by Mr. Arrindell.

Should you have any questions, or should you require any further information, please do not hesitate to ask.

Sincerely

A handwritten signature in dark ink, appearing to be "Eldert J. Louisa", written over a light blue horizontal line.

Eldert J. Louisa
Chief Technical Officer
St. Maarten Telecommunication Operating Company N.V.

cc: The Honorable Minister of TEATT, Claret M. Connor
Supervisory Board of Directors
Strategic Group
SMCU
Marco London

February 26, 2015

To: The Honorable Prime Minister & Shareholder Representative
Sint Maarten Telecommunication holding company N.V

Postbus 1000 Sint Maarten

27 FEB 2015

Subject response to letter from telem management dated February 23, 2015

Dear Honorable Prime Minister:

Let me start by saying after reading mister Eldert j. Louisa's letter in response to my writing to your office I am not surprised by his comments and statements I came to the conclusion Mr. Louisa does not know what he is talking about or he was misinformed by his managers or he has selective amnesia

Eldert Louisa is making statements to try and put himself and management in a better light within your office as the shareholder representative, first off he insinuates that the outside team that was hired for this job had the required skills and cost less than the other contractors including myself

Let us weigh the facts of his statements where pricing is concerned:

Airfare for these technicians to come to the island

Accommodations for these 5 technicians

Transportation for these 5 technicians

Food vouchers for these 5 technicians, breakfast, lunch and dinner

Plus their hourly rates that Mr. Eldert Louisa failed to disclose to you while disclosing the amounts of my invoices that I worked for.

Secondly mention was made of a price list that was accepted by myself as a contractor and the other contractors as well but Mr. Louisa failed to mention that this price list was for doing telephone lines and internet installations (misinformation on his behalf I guess) I as a contractor was never given a fiber quote from telem concerning prices or any unit rates as stated by this manager.

Eldert Louisa should be ashamed to even mention the word skilled professionals from abroad while the work force that we have here are more skilled at executing what has to be done for the company and on time, this manager has made it a practice to not comprehend things that are not convenient for him and his minions. He spoke of lack of manpower on my account while knowing he himself referred me to join forces with Mr. Jan Benjamin, Clemenceau Fleming and mister Lorenzo Gibbs, and I was told by this same manager that we will be given the task of blowing and splicing the fiber when mention was made by mister Benjamin on making the investment on the equipment necessary he was told telem has all the tools we will need, also the technicians that were brought in did not bring any equipment except a pliers and a screwdriver all other tools were provided by telem.

Mr. Louisa also implied that I was contacted to do an emergency repair at a local hotel and did not have the equipment to carry out the job again I was not requested to carry out the job I was asked a

question by Mr. Louie Philips if I can handle the job and my answer was yes to him and his reply was I will call you back which he never did, so whatever Mr. Louisa is trying to imply here again in his statements are incorrect or he was misinformed or he is trying to mislead your office purposely.

Mr. Louisa know I am fully qualified to splice all and every type of fiber, but those of us in the company know it is a common practice inside of telem for management to overlook most of the employees and find outside resources. While these same technicians that are overlooked are the ones that have the company fully functional up and running with what is available to them, within the company we have managers that are there solely for being the friend of another manager with no knowledge of the day to day running of the company technical wise. Mr. Louisa also made reference to me upgrading myself my question to him is how does he know to what level I am upgraded and what is my skills level, again he was either misinformed or is trying to mislead your office into believing I am not capable. I am the technician that single handedly put in all the fiber rings at all the exchanges from telem including the Juliana international airport where was Mr. Eldert Louisa and his advisers at that time he never questioned my skill levels, once you are certified as a fiber optics technician it's an ongoing process that goes along with the upgrading of the materials being used and technics of which I am fully capable and up to date with, so to read Eldert Louisa's statement they are falling nothing short of derogative.

When I first heard of how Mr. Louisa was planning to roll out his fiber project I came to the conclusion that he was again misinformed by his so call team of advisers and he did not know what fiber to the home really entails. Again honorable prime minister after reviewing the letter written here by management of telem I came to the conclusion that this is done to try and water down the main facts where local contractors are being abused overlooked and being force to accept what telem is offering them while on the other hand they have no problem paying the outside contractors what they want,

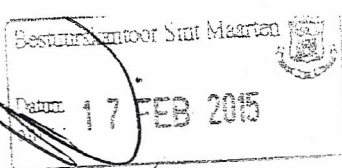
Since this company is a government owned company and you honorable prime minister as the shareholder representative please request the prices paid to this contractor and what is the connection of the company to certain people within telem itself. management has being hiding behind their veil of deceit too long in this company it is time to highlight their failures and shortcomings as managers that have failed the workers of this company to make sure promote and execute projects properly under their management schemesmy question to Mr. Eldert Louisa are you certified on fiber to question my certification and knowledge of the job? I already know the answer but I would like to hear it from you.

In conclusion of this letter Honorable prime minister all I am looking to secure here is what was entailed in the social plan when telem was downsizing, if I cannot eke out a living here in my own country but be at the mercy of people who have their own future planned out within the company and pushing me into a corner to face certain doom at their hands I will not sit by idly and let it be done, I am prepare to fight for what is rightfully mine

Thanking you in advance Alberto Arrindell



]Cc: honorable minister of teat, Claret Conner, Mr. Ludson Evers, SMCU



Feb 17th 2015

To: the Hon. Prime Minister, Marcel Gumbs, the Hon. Minister of telecom Claret Connor

Cc: Management of the St.Maarten telephone company, president of the St.maarten telephone company union, Ludson Evers.

Dear sir/Madame,

I am a former employee of the St.maarten telephone company I worked for the company for 19years starting on march 15th 1993 and ending on June of 2012 during my tenure at Telem I acquired the skills and know how to become a top class technician efficient on both copper and fiber cables. during the downsizing of the company we were assured by management and the union, it is written in the C.L.A that any spaces or voids left by the down sizing will be filled by former technicians and staff, I remained at home for another year and a half then I was called back and offered a job as a contractor for installations and data lines, management was and still is fully aware of my qualifications on both networks I was told at the time I was needed for the fiber work that will be coming up in a matter of months during the time that I came back as a contractor in October 2013 . now upon learning of the fiber work progress I was accosted a week or two ago to bring in a price list of what it will cost to do certain fiber work of which I complied.After doing what was requested no meetings were ever held between myself and the outside plant manager now under this same manager a work team compromising of five technicians from the country of Suriname came in as fiber optic splicers to do the same work that I am certified to do which this manager is fully aware of because he has my whole file . my questions now to the responsible authorities isn't there suppose to be some form of protection for taxpayers of a country based on the facts that instead of venturing out you use what you have in house, I am sad to see such practices happening in a company that I help build and was told first preference will be given to us to use the ones that went home and has the experience needed ,certain mangers at Telem behave as if they are the ones in charge of their own and personal company to do what they want and how they want, I am not the only contractor suffering this fate at the hands of these unscrupulous mangers with their hidden agendas. I am contacting you mister prime minister and the minister of telecom to intervene in this matter to secure the livelihood of the local contractors, this matter is of a very serious nature and I intend to take it as far as I have to until some matter of satisfaction is a achieved. I will not sit by idly and watch as my existence is threatened by greed of a few who has no care for what happen to us and it is wrong what is happening because no way under god's sun will I ever be allowed to go to their country and be given first preference doing what they do. If I cannot live like a king in my own country then where will I live.Again I am requesting you to address this matter as the shareholder representative and look into this matter, and treat it as an urgent matter. I will be awaiting for your reply to my pleas and hoping they will not fall on deaf ears. As a taxpayer and voter of this country I think I have some kind of rights to approach my elected officials in such cases and get some measurement of results.

Thanking you for your cooperation in this matter,

Kind regards and awaiting your response.

Alberto Arrindell

Contact :721-526-4477



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Notice of Termination Investigation
(Article 16 and 17 sub 3 National Ordinance Ombudsman)

Ministry of Public Health, Social Development and Labour
The Honorable Mrs. R. Bourne-Gumbs, Acting Minister of Public Health, Social
Development and Labour
Clem Labega Square,
Philipsburg
Sint Maarten

Philipsburg, 12 February, 2015

Your ref.no.:
Our ref.no.: OM-OBM 0149/2015

Your letter of:
Complaint no.: 2014/00179

The Honorable Minister Bourne-Gumbs,

This letter is to inform you that the Ombudsman refrains from further investigation of abovementioned complaint (**Sint Maarten Communication Union**) in accordance with the National Ordinance Ombudsman ("*Landsverordening Ombudsman Ab 2010 GT no.20*").

Summary of Complaint:

The Sint Maarten Communication Union (Complainant) send a letter dated May 22, 2014 to the Minister of Healthcare, Social Development and Labour ("VSA") to request the Minister to intervene in the incident that the Government Mediator does not react on requests from the SMCU to mediate. The SMCU complains that no response is received from the Minister of VSA on the aforementioned letter.

Findings:

The abovementioned letter dated May 22, 2014 refers to two other letters that the Sint Maarten Communication Union (SMCU) sent to the Government Mediator. The pertinent letters are dated March 25, 2014; one letter deals with a request to the Government Mediator to mediate in cases regarding the Telem Group of Companies (TELEM) and in the other letter to mediate in cases regarding the Sint Maarten Cable TV.

During the investigation of the complaint the SMCU also handed the Bureau Ombudsman several documents from which became clear that a court case between SMCU and Sint Maarten Cable TV might be ongoing. A verdict in a summary procedure between aforementioned parties, given on August 16, 2013 concludes that Sint Maarten Cable TV



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should allow SMCU to start negotiations for a collective labour agreement. Furthermore, a statement of appeal from Sint Maarten Cable TV dated September 20, 2013 indicating that an appeal procedure was started against aforementioned decision.

On September 18, 2014 a Notification of Complaint (NOC) is sent to the Minister of VSA in which he is requested inter alia to answer the following questions:

- Explain why the letter from SMCU dated May 22, 2014 remained unanswered?
- Which are the procedures to handle letters from citizens or entities to the Minister of VSA?

In a letter dated October 7, 2014 the Government Mediator responded to the NOC as requested by the Minister of VSA.

The Government Mediator stated that as provided by article 5 of the *Arbeidsgeschillenlandsverordening* (AB 2013, GT no.344) he refrains from mediating in the case of the Sint Maarten Cable TV, because there is a lawsuit ongoing in the pertinent case.

In regard to the case of TELEM the Government Mediator informed the Ombudsman that he notified the President of SMCU that there would be a conflict of interest if he would be the mediator, as he is chairman of the TELEM. Therefore, the Government Mediator had as provided by article 8 *Arbeidsgeschillenlandsverordening* (AB 2013, GT no. 344) appointed another extraordinary Mediator. According to the Government Mediator he informed the President of the SMCU about the aforementioned. The Government Mediator indicated that the parties agreed on this course of action, as well as the person to be appointed as such. However, the prospective Mediator decided to return to the Netherlands, and was no longer available.

The Government Mediator in answering the NOC informed the Ombudsman that - with the consent of the Minister of VSA – he is willing in consultation with the Director of the SMCU, to find a suitable candidate for the function as an extraordinary Government Mediator.

Per email dated November 6, 2014 the Ombudsman requested an explanation from the SMCU if Court proceedings are ongoing regarding the Sint Maarten Cable TV case, and if an extraordinary Mediator has been proposed by the Government Mediator in the TELEM case? The SMCU informed the Ombudsman that an appeal is ongoing regarding Sint Maarten Cable TV, but according to the SMCU the appeal does not concern anything in regard to the letter dated March 25, 2014.

In reference to the TELEM case SMCU responded that at one occasion the Government Mediator did ask him: *"... if the union have any problem he appointing an extraordinary mediator and I told him that it would not be any problem, but that stay in the air"*, and *"The Minister also post the same question to me when I had a telephone conversation with him....."*.



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On November 10, 2014 the SMCU provided the Ombudsman with the verdict dated November 7, 2014 in the case against Sint Maarten Cable TV. The Court reiterates in pertinent verdict that Sint Maarten Cable TV should start negotiations for a collective labour agreement with SMCU. Hence, there is apparently indeed a role in this for the Government Mediator.

On December 1, 2014 the Ombudsman sent a Preliminary Findings Report to the Minister of VSA. By email of December 17, 2014 the Minister of VSA responded to the PFR regarding the complaint about TELEM, reiterating what was mentioned as a response to the NOC by the Government Mediator, adding a mediation contract dated October 27, 2014 between TELEM and SMCU.

With reference to the complaint regarding the Sint Maarten Cable TV the Minister of VSA mentioned that article 5 of the *Arbeidsgeschillenlandsverordening* prohibits in this case that the Government Mediator mediates between parties, because the Government Mediator is part of a Court case of Sint Maarten Cable TV against him. Moreover, the Minister of VSA stated that the content of the verdict dated November 7, 2014 in the case between SMCU and Sint Maarten Cable TV is not known to him.

On January 19, 2015 SMCU confirms to the Ombudsman via a telephone conversation that a private mediator is appointed. As a consequence of the aforementioned SMCU sent an e-mail dated January 19, 2015 with the verdict from November 7, 2014 attached to the Government Mediator.

On January 21, 2015 the Government Mediator provides the Ombudsman with yet another verdict dated December 15, 2014 of a case from Sint Maarten Cable TV against him - about his task as a Mediator - arguing that 'de facto' a court case is still going on involving SMCU, and there is still the possibility for Sint Maarten Cable TV to appeal this verdict.

Standard(s) of proper conduct:

The Ombudsman investigates whether the behavior of public bodies towards citizens is correct. The applicable standards of proper conduct in these cases are: The *standards of active and adequate information provision* and *promptness*.

The *standard of active and adequate information provision* provides that a public body is required to actively provide adequate information to the citizen concerning the interest of the citizen. On the one hand, this entails adequately replying to a question posed by the citizen, and on the other hand it entails that the public body actively informs the citizens of actions that affect the interests of the citizen

The *standard of Promptness* requires that a government body is expected to observe the applicable deadlines. If no deadlines are specified, the governing body must act within a "reasonable" period to come to a decision. The interpretation of a "reasonable" time depends



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on the facts and circumstances. If a delay can be expected in regard to a decision which needs to be made, the person should be informed in a timely manner.

Conclusion:

The Sint Maarten Communication Union (SMCU) sent a letter dated May 22, 2014 to the Minister of Public Health, Social Development and Labour ("VSA") to request the Minister to intervene in the situation that the Government Mediator does not react to letters dated March 25, 2014 to mediate regarding issues concerning the Telem Group of Companies (TELEM) and Sint Maarten Cable TV.

On September 18, 2014 the Ombudsman sent a Notification of Complaint (NOC) to the Minister of VSA, who is responsible for acts of the Government Mediator. The Government Mediator answers on behalf of the Minister of VSA to the NOC, stating that a lawsuit is ongoing regarding the Sint Maarten Cable TV situation, and therefore as provided by article 5 *Arbeidsgeschillenlandsverordening* (AB 2013, GT no.344) he is not allowed to mediate in this case. On November 7, 2014 a verdict is given in the case between Sint Maarten Cable TV and SMCU, and on December 15, 2014 another verdict is pronounced in a case between Sint Maarten Cable TV and the Government Mediator.

The Government Mediator argues that in the TELEM case there is a conflict of interest, because he is chairman of the Board, and consequently informed SMCU that he would appoint an extraordinary Mediator. However, the pertinent extraordinary Mediator returned to the Netherlands. Complainant confirmed this, subsequently a mediation contract was signed between SMCU and TELEM.

The Ombudsman concludes that despite the aforementioned, the letters to the Minister needed to be answered; the Minister of VSA or the Government Mediator should have responded to the letters of the SMCU to inform Complainant why the Government Mediator could not mediate. An answer in writing is required to avoid that the position of the Mediator is not clear. That the extraordinary Government Mediator returned to the Netherlands was however no reason not to follow up the request for mediation in the TELEM case for more than seven months.

Considering that court cases relating to the complaint involving Sint Maarten Cable TV are ongoing, the Ombudsman is not authorized to deal with this complaint, and will accordingly refrain from further investigation.

While the complaint is partly founded, and it is concluded that the Minister of VSA in the complaint regarding TELEM did not comply with the *standards of proper conduct of adequate information provision and promptness*, the Ombudsman nonetheless also refrains from further investigation of this complaint, because on October 27, 2014 the SMCU and



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TELEM have agreed to appoint a private mediator.

Both the Mediator and the Minister are advised to observe propriety at all times, and respond to letters in writing to avoid doubt and uncertainty regarding request and queries from citizens

Sincerely,

Dr.R. (Nilda) J.A. Arduin
Ombudsman



CC: Mr. R. Boasman, Government Mediator
Mrs. J. Wuite, Secretary General
Mr. L. Evers, President SMCU