



NEWS REPORT

Date: 6 April 2010
Expert: Rikki Holtmaat
Title: Company refuses to print bath towels with text referring to gay sports games
Country: The Netherlands

Context

Issue at stake: Discrimination on the grounds of sexual orientation while offering goods and services
Ground of discrimination: Sexual orientation
Source: Decision national equality body ETC Opinion 2010-32
Field: Access to goods and services
Legislative provisions: General Equal Treatment Act, Article 7 par. 1, sub a

Content

Case/law: An organisation that organised Gay Sports Games wanted to order bath towels with the imprint "Gay Sports Nijmegen PINK Tournament 2009". It asked a company "X" to give a price for this. However, "X" previously had made it clear on its web site that it would not do any print work that according to its own views was blasphemous, or in any other way offensive to the good morals. On this ground, "X" refused to print the towels for the Gay Sports Games. On 9 March 2010, the Equal Treatment Commission (ETC) gave as its Opinion that this did not constitute discrimination on the ground of sexual orientation. Article 7 GETA, governing access to goods and services, only rules that when a certain good or service is offered to the general public, this may not be done in such a way that certain groups are excluded on the basis of a prohibited ground. However, Article 7 does not compel a company or owner of an enterprise to offer certain goods that are equally useful for everybody. The ETC makes a comparison with a shop selling women's clothes; this shop can not be compelled to sell men's clothes as well. According to the ETC "X" has made it clear on its web site that it only offers goods that in its own opinion are morally correct. This restriction does not make a direct distinction on a prohibited ground. The applicant's claim that "X" thereby makes an indirect

distinction on the ground of sexual orientation because mostly homosexual people will suffer the consequences of this policy of “X”, is not accepted by the ETC. The ETC acknowledges that some people may take offence of the reason given by “X” for not wanting to deliver the requested towels. However, it simply repeats its statement that Article 7 of the GETA does not compel any company to offer certain goods or services, *irrespective of the reason for this*. The claimants’ position would lead to the view that the prohibition to discriminate in the area of goods and services would mean that any person could claim any good or service to be delivered as soon as this could in any way be linked to a non-discrimination ground.

Decision of the ETC: No discrimination on the ground of sexual orientation.

Internet link source and additional information: ETC Opinion 2010-32, dd 9 March 2010. To be downloaded from: <http://www.cgb.nl/node/15075/volledig> (Last accessed on 6 April 2010.)