[ES] Approval of New Provisions on Digital Audio Broadcasting

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On 23 July 1999 the Spanish Government approved a Decree on the National Technical Plan on Digital Audio Broadcasting (DAB), in order to establish DAB services in Spain. A Ministerial Order on the provision of DAB services was approved on the same day. The legal basis of these provisions is the Forty-fourth Additional Provision of Law 66/1997 of 30 December 1997, which refers to the possible introduction of new digital terrestrial radio and digital terrestrial television services.

DAB will not substitute for the existing analogue radio services so there is no `switch-off' date. The Decree on the National Technical Plan on DAB and the Ministerial Order does set up a four-phase implementation timetable for the digital network rollout. The first phase, starting in the year 2000, will last up to eighteen months and aims to reach at least 50% of the population. The last phase will start in June 2006 and aims at reaching at least 95% of the population. According to the Decree, there will be six transmission networks called `multiplexes', each of which will be able to carry at least six different DAB programme services. There will be three national multiplexes, two regional multiplexes and one local multiplex. The Decree reserves six programme services in the national digital multiplexes for the national public service radio operator Radio Nacional de España (RNE), and it reserves six programme services in the regional multiplexes for the regional public service radio operators. The remaining DAB programme services available will be operated by private broadcasters, which will be awarded concessions following a public tender. The Spanish Government will award the concessions for the provision of national DAB programme services, and the Governments of the Comunidades Autónomas (`Autonomous Communities', the 17 Spanish regions) will award the concessions for the provision of regional and local DAB programme services. The new provisions on DAB do not include any provision on content regulation. The existing legal provisions that regulate radio broadcasting apply to DAB, barring those that specifically regulate the provision of AM or FM radio services. Among the existing provisions which regulate radio content and which would apply to DAB, the most important are the 1980 Statute on Radio and Television, the 1988 Advertising Act, the national and regional Laws that regulate elections, the regional Laws that regulate the creation of the regional public service broadcasters, and the regional Laws that regulate the protection of minors, the advertising of alcoholic beverages and cigarettes in the regional media and the protection of the regional

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languages and culture. The legislator has not created a new system to limit concentration in the DAB sector: it merely refers to the system created in 1987 for analogue radio, which has been slightly adapted for DAB services. The Ministerial Order expressly refers to the Sixth Additional Provision of the 1987 Telecommunications Act, which remains in force although this Act was abrogated by the 1998 Telecommunications Act. According to the 1987 Telecom Act, a concessionaire for the provision of radio services cannot have a majority stake in another concessionaire whose services are provided in an area which overlaps significantly. The Ministerial Order also sets limits on the ownership of licenses in overlapping areas, using as a model the limits set by the 1987 Telecom Act for the ownership of AM and FM licenses in overlapping areas. DAB concessionaires can only have more than one DAB license in an overlapping area once pluralism and diversity have been guaranteed in that area. These provisions do not say when pluralism is guaranteed, neither do they set limits to the indirect control of more DAB services in that area, e.g., by means of network agreements.

Real Decreto 1287/1999 de 23 de Julio de 1999 por el que se aprueba el Plan Técnico Nacional de la Radiodifusión Sonora Digital Terrenal.

Decree 1287/1999 of 23 July 1999 on the National Technical Plan on Digital Audio Broadcasting (DAB).

Orden de 23 de Julio de 1999 por la que se aprueba el Reglamento Técnico y de Prestación del Servicio de Radiodifusión Sonora Digital Terrenal.

http://www.sgc.mfom.es/legisla/radio_tv/o230799.htm

Ministerial Order of 23 July 1999 on the provision of DAB services

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