[HR] New Law on Telecommunications with Impact on Broadcasting

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The new Law on Telecommunications passed on 30 June 1999 sets preconditions for the privatisation of the fixed telephone network until now owned by Hrvatske telekomunikacije (the Croatian TelecomHT) and further facilitates full competition in this market starting on 1 January 2003. The new law thus implements the EC's Open Network Provisions. This also entails real competition in the market of Internet providers.

The new law also establishes the Hrvatski zavod za telekomunikacije , (the Croatian Institute for Telecommunications, which is the state administrative organisation) as an independent regulator for telecommunications. The Sabor (House of Representatives of the Croatian Parliament) will, upon recommendation by the Government of the Republic of Croatia and following a public auction, appoint five commissioners who will comprise the Institute's Commission.

Within the Croatian Institute for Telecommunications («Institute») the Commission will establish a Telecommunications Council of Consumers («Telecommunications Council») as an independent body whose task is to mediate in disputes between the providers and the users of telecommunications services. The Institute is a non-profit making body and its operational funds are provided from within its own sources. Concessionaires and others, who, on the basis of the stipulations of the new law, provide telecommunication services, pay a contribution proportionate to their annual income from such services.

According to the new law the body responsible for issuing a concession for radio and television activities is the Vije ´ce za radio i televiziju (the Council for Radio and Television - «Broadcasting Council»), as it was determined in the old law. The Broadcasting Council performs independently all activities that are within its scope. The Broadcasting Council comprises nine members appointed from the ranks of public, educational, cultural, professional and religious personalities, appointed and re-appointed for a five-year period by the House of Representatives of the Croatian Parliament, at the recommendation of the Government of the Republic of Croatia. The Broadcasting Council shall invite offers for concessions for radio and television, through open competition. As regards criteria for granting a broadcasting concession, a potential concessionaire must have at his disposal most of the infrastructure required for transmitting

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radio or television programmes; the majority of activities must be performed by permanently employed staff; the concession to broadcast must be acquired (in advance) from the Broadcasting Council and the concession contract signed with the Institute, also in advance. The broadcasting concession granted may be at a national or regional level, and can cover two to five counties; it may also be at the level of a town and a county.

A concession can only be obtained by a company in which no single member can hold more than one-third of the capital, and foreign capital cannot make up more than one-third of the total capital. A concession is granted for a twenty-year period and the contract to that effect, which must contain the programme scheme, is concluded with the Institute. Political parties or bodies of state administration cannot be concessionaires. A concessionaire of a non-profit making radio station must not broadcast commercial messages.

A concessionaire's programming must observe the following:

- Human dignity and human rights; it must contribute to the respect for the opinions and beliefs of others;

- Contribute to the free formation of opinions, to multi-faceted and objective information, education and entertainment;

- Promotion of cultural achievements, international understanding; it must defend democratic freedoms, promote understanding towards minorities, etc.;

- Not serve any particular party, interest or attitude to the world;

- News programmes must present facts in an unbiased, truthful and faithful manner; differences in opinions must be made clear; commentaries have to be easily understood as being somebody's attitude or opinion; the programme must respect differences in opinions;

- Governmental bodies must not influence a concessionaire with regard to the compilation of the programme; every act of censorship or limitation of the freedom of speech is unlawful;

- Programmes detrimental to the defence of the country are prohibited; pornography is banned, as is the showing of violence, dissemination of religious hatred, as well as programmes detrimental to the development of children under 18 year of age, etc.;

- Regulations covering commercials envisage a ban on the advertising of tobacco products and of prescription medication, as well as limiting the advertising of alcoholic drinks and linked sponsorships. All the above is covered by general rules on a clear delineation between commercials and the programme. At the

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recommendation of the Institute, the Broadcasting Council can, by means of a Ruling, withdraw a concession for telecommunication services, either for a specific period of time or indefinitely, if it is established that the concessionaire, even after being repeatedly cautioned by the Institute, is not adhering to the stipulated or contracted programme criteria, and in the following cases:

- where the approval or concession was obtained on the basis of false information which is of relevance to making a decision on granting the approval or concession.

- where the approved or conceded activity is, deliberately and repeatedly, even after the Institute or a competent inspector issued a third caution, being performed in a manner distinctly contrary to at least one of the following instruments: regulations, the act of approval of concession, or the contract covering the performance of the approved or conceded activity.

In addition, the new law states that supervision of the implementation of all applicable regulations relating to telecommunications is to be performed by the Institute.

The new law provides that advertising is allowed up to 12 minutes in one hour or up to 15% of total programming for commercial television stations at the national and regional level. Local television stations are allowed up to 18 minutes in one hour or up to 25% of total programming. They are also allowed to network their programmes for up to 5 hours in identical daily programming, thus practically gaining national concession for these 5 hours. The only exception to this rule is Croatian Radiotelevision (Hrvatska radiotelevizija - HRT). As national public broadcaster HRT is not allowed to have more than 4 minutes of advertising in one hour and it is not allowed to broadcast sponsored shows or teleshopping. Since this represents a drastic cut, compared to the earlier regulation which granted HRT 9 minutes in one hour and up to 10% of total programming, the HRT Council (Vije ´ce HRT-a), public supervisory body of HRT, on 9 July 1999 requested Croatian Parliament to change this particular regulation as soon as possible.

Zakon o telekomunikacijama, Narodne novine Nr. 76/99, 19 July 1999.

Telecommunications Act, Official Gazette No. 76/99, 19 July 1999.

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