[IT] Parliament Informed about Dominant Positions in the Television Broadcasting Market

IRIS 2000-7:1/12

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Pursuant to the Istituzione dell'Autorità per le Garanzie nelle Comunicazioni e norme sui sistemi delle telecomunicazioni e radiotelevisivo (Communications Act of 31 July 1997, no. 249, see IRIS 1997-8: 10, hereinafter: "Act") and to the Regolamento in materia di costituzione e mantenimento di posizioni dominanti nel settore delle comunicazioni (Dominant Positions Regulation no. 26/99; see IRIS 1999-7: 11), on 13 June 2000 the Autorità per le Garanzie nelle Comunicazioni (Italian Communications Authority - AGC) adopted Decision no. 365/00/CONS ascertaining the existence of dominant positions on the television broadcasting market.

According to Article 2, paragraph 8 of the Act, a dominant position is presumed when a broadcaster earns more than 30% of the economic resources of the broadcasting sector. As a general rule, when the AGC discovers the existence of a dominant position that is the result of agreements or mergers of undertakings, it is also deputed to impose sanctions on the broadcasters concerned, which may consist of an order to separate the undertakings or combined assets. However, the following paragraph of that article introduces an exception where, prior to the entry into force of the Act (1 August 1997), a dominant position has been reached by a spontaneous growth of the undertaking in question, which does not restrict competition or affect pluralism. In this case the AGC shall instead inform the Parliament.

On 2 December 1999 the AGC started proceedings to verify the situation of the Italian broadcasting market with reference to 1997 and gave notice of preliminary proceedings to the two main Italian broadcasters, Rai and RTI, and their advertising agencies, Sipra and Publitalia, in order to verify whether they had exceeded the thresholds fixed by the Act. In its decision the Authority has ascertained that the two economic units - Rai & Sipra and RTI & Publitalia - have both exceeded the thresholds, but that their positions on the market, though dominant, have been reached by means of a spontaneous growth of their undertakings without restricting competition or pluralism. Consequently the Parliament has been duly informed, and it has also been decided that the AGC will promptly carry out a broader analysis of the television broadcasting market, paying particular attention to the distribution of technological and economic resources, to the access to production facilities, to the number, strength and audience of the undertakings of the relevant market and to the impact of

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multimedia and digital technologies.

Delibera del 13 giugno 2000, no. 365/00/CONS, Accertamento della sussistenza di posizioni dominanti ai sensi dell'articolo 2, comma 9, della legge n. 249/1997.

http://www.agcom.it/provv/D365_00_CONS.htm

Decision of 13 June 2000, no. 365/00/CONS.

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