[MT] Broadcasting Act Amended

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In July 2000, Act No. XV amending the Broadcasting Act 1991 (as amended by Act XIV 1993), became effective. Key features of the law now include provisions allowing for wider media ownership, a definition of "teleshopping" as well as amendments to the "must carry obligation" imposed on cable TV operators. It also contains restrictions on the transfer of broadcasting licenses.

In its original version, the Broadcasting Act provided that a licensee could only obtain either a TV or a radio licence. In its 1993 amendment, the law widened this provision to allow for ownership of both a TV and a radio licence by the same licensee. In its latest version the Broadcasting Act now gives one person/company the option to own a third broadcasting service in form of a teleshopping station.

Teleshopping is now defined in the law. Prior to the 2000 amendment the law referred to teleshopping as a "form of advertisement", without providing a definition. The old law contained fairly stringent provisions as to the amount of time, which this "form of advertisement" could occupy per day. A legal notice is in preparation to give clarification to this issue. Although a final decision as to Malta's EU accession has yet to be made, the parliamentary discussion indicates that the current Government wants to bring the provisions of the legal notice into line with the EC "Television without Frontiers" Directive and the Council of Europe Convention on Transfrontier Television.

The new law also introduces changes to the "must carry obligations" on cable TV operators, which were already in existence under the old law. Initially introduced to remove the vast amount of aerials still to be seen in Malta, these provisions protected the cable operator from claims of breach of copyright when it re-transmitted broadcasts received terrestrially.

Finally, the amendments contain new restrictions on the transfer of broadcasting licenses. Previously the law had listed (1) assignment of a broadcasting licence and (2) the assignment of shares in a company holding a broadcasting licence, as acts constituting a transfer of a broadcasting licence and would therefore require the prior consent in writing of the Broadcasting Authority. It was held that transfer of the effective control of a company holding a broadcasting licence was implied in the law. Its inclusion in the list can therefore not be considered as being entirely new.

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The new law adds the following acts to the existing list:

- the transfer of managerial control of a broadcasting station by a broadcasting licensee to another person,

- the transfer of beneficial ownership of a company holding a broadcasting licence and

- the merger of companies holding a broadcasting licence.

Broadcasting (Amendment) Act No. XV of 2000 amending the Broadcasting Act 1991, as amended by Act XIV 1993, (see Cap 350. of the Laws of Malta)

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