[IT] Implementation of the Conditional Access Directive

IRIS 2001-1:1/31

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On 15 December 2000, the Conditional Access Decree (Attuazione della direttiva 98/84/CE sulla tutela dei servizi ad accesso condizionato e dei servizi di accesso condizionato, Decreto legislativo of 15 November 2000) was published in the Italian Official Journal and entered into force. In this way Italy has transposed Directive 98/84/EC on the legal protection of services based on, or consisting of, conditional access.

Article 1 contains definitions of: services based on conditional access (television or radio broadcasting services or Information Society services provided for remuneration and on the basis of conditional access); services consisting of conditional access (provision of conditional access to services based on conditional access considered as a service in its own right) and conditional access devices (equipment or software designed or adapted to give access to a protected service in an intelligible form), the aim of the decree being to prohibit infringing activities (Article 2). The latter are defined as the manufacture, import, distribution, sale, rental or possession for commercial purposes of illicit devices; the installation, maintenance or replacement for commercial purposes of an illicit device; the use of commercial communications to promote illicit devices (Article 4).

Pursuant to the 98/84/EC Directive, no restriction is laid down as regards the provision of protected services, which originate in another Member State or the free movement of conditional access devices. But specific reference is made to Article 2, paragraph 2, of Law no. 78/99 (see IRIS 1999-4: 8) which renders the use of a common TV-decoder for the transmission of conditional access digital programmes compulsory from 1 July 2000 (Article 3). The standards of the decoders were determined by the Autorità per le garanzie nelle comunicazioni (the Italian Communications Authority) by a regulation of 7 April 2000, no. 216/CONS/00 (see IRIS 2000-6: 9).

Articles 5 and 6 entrust the Ministero delle Comunicazioni (Communications Ministry) with monitoring and sanctioning powers; administrative pecuniary fines range up to 100.000 EUR.

Conditional Access Decree of 15 November 2000, no. 67, no. 373, Official Journal 2000, 292

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