[PL] Discussion on the Draft Broadcasting Act

IRIS 2002-6:1/22

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On 27 March 2002 the Prime Minister sent a broad draft of amendments to the Broadcasting Act of 29 December 1992 (with later amendments) to the Speaker of the Parliament, thus initiating the legislative procedure (see IRIS 2002-5: 6).

The draft comprises several sets of provisions. Probably, the most problematic and most widely commented on are the new provisions concerning media concentration. Article 36 para. 3 of the aforementioned draft provides that a broadcasting licence shall not be granted if: 1. the applicant, requesting the license for the transmission of the radio or television programme service via the network of transmitting stations whose range covers over 80% of the country's population, transmits a radio or television programme service of such range, or owns a nation-wide daily newspaper or periodical; 2. the applicant, requesting the license for the transmission of the radio or television programme service via transmitting station or stations whose range covers a town with a population exceeding 100,000, transmits a radio or television programme service via the transmitting stations whose range covers over 80% of the country's population; 3. the applicant, requesting the license for the transmission of the radio or television programme service via transmitting station or stations whose range covers a town with a population up to 200,000, transmits another - relevant radio or television - programme service in the given area; 4. the applicant, requesting the license for the transmission of the radio or television programme service via transmitting station or stations whose range covers a town with a population exceeding 200,000, transmits two or more other - radio or television, as relevant,programme services in the given area; 5. the applicant, requesting the license for the transmission of the radio or television programme service, transmits another - radio or television, as relevant, - programme service, of the same nature, in the given area.

Applying the aforementioned provisions, a dependent - in the sense of corporate law - entity's application for the license shall be ascribed to the dominant parent company within the meaning of the Act on competition and consumer protection of 15 December 2000.

The entity - in the sense of corporate law - which fulfils the aforementioned negative conditions to be licensed, may neither directly nor indirectly own or exercise rights attached to the shares constituting more than 20% of the share

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capital of the entity which holds the license. Legal actions taken in violation of this provision shall be null and void.

It should be noted that the aforementioned provisions shall not apply to programme services transmitted exclusively via satellite or intended for exclusive transmission in cable networks or as part of terrestrial or satellite multiplex signals or to public service broadcasters.

The Draft launched a broad debate on new proposals. The Government states that the only aim of these provisions is to prevent the creation of media monopolies. Private media argued that these provisions would limit the development of electronic private media and would make Broadcasting Council, Warsaw National them less competitive than foreign media investors entering on Polish market. The National Broadcasting Council, the regulatory body for the broadcasting sector, issued on 23 April 2002 a Statement referring the draft and changes introduced by Government into it. NBC states that in connection with a governmental proposal of sharpening anti-concentration provisions (in particular the NBC whose original proposals did not enlarge restrictions on the press market, see IRIS 2002-3: 10), and in the light of remarks made during public discussion, a reconsideration of drafted provisions referring to the issue of concentration in the media sector would be useful.

Projekt nowelizacji ustawy o radiofonii i telewizji

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