[ES] Amendment of Several Provisions Relating to Media Law

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In December 2002, the Spanish authorities approved several provisions that partially amend some existing norms relating to the country's media law. On 30 December 2002, the Spanish Parliament approved the Ley de Medidas fiscales, administrativas y del orden social (Act 53/2002 on Taxation, Administrative Provisions and Social Affairs).

An Act on taxation, administrative provisions and social affairs ("Special Measures Act") is approved each year, together with the Budget Act. The main object of the Special Measures Act is to introduce amendments to existing provisions, thus acting as a "container" of amendments. For example, this year's Special Measures Act amends more than forty different Acts, including the following:

1) Act 41/1995 on Local Terrestrial Television

According to the new amendments of this Act, local terrestrial television shall be broadcast using digital technology only. This decision has been quite controversial, as national digital terrestrial television has not been successful so far, and almost no households have the necessary equipment to receive this kind of signal. Local terrestrial television is financed by advertising revenue so, taking into account that in the near future local DTTV will have almost no potential viewers, the new legislation has been heavily contested by the existing local television broadcasters. However, it must be said that these broadcasters are operating without a licence and that the few that are broadcasting legally have only been allowed to do so temporarily, until such time as a new framework would be established.

According to this new legislation, only those cities or groups of cities that meet certain population thresholds will be allowed to have local digital terrestrial television stations. The Government has to approve a Technical Plan on Local Terrestrial Television, which will determine which multiplexes will be available. Each of these multiplexes will be able to carry at least four digital terrestrial television programmes. Once this Technical Plan has been approved, the Autonomous Communities will have to award the concessions for the provision of this service in less than eight months. Some Autonomous Communities have complained that the new national legislation sets too many limits on their powers

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to regulate this service. However, the Government considers that all of these measures are necessary to foster the transition from analogue to digital terrestrial television.

2) Act 10/1988 on Private Television

The new amendments mainly deal with limits on ownership of terrestrial television concessionaires. Now, it is no longer forbidden to have holdings exceeding 49% Entidad Pública Empresarial RED.ES of the share-capital of one licence-holder. However, the undertakings that hold shares in national terrestrial television concessionaires are not allowed to have holdings in any other television concessionaire, regardless of its coverage. This means that an undertaking will no longer be able to concurrently have holdings in a national television concessionaire and in regional or local television concessionaires.

As regards undertakings that have holdings in regional or local television concessionaires, they will not be able to participate in other television concessionaires in an overlapping area. Those undertakings may have holdings in concessionaires that provide their services in areas that do not overlap, as long as the population covered by their services does not exceed the limits that will be set by means of a regulation.

The new provisions include a transitional clause, which establishes that the undertakings that do not comply with the new ownership limits will have a period of one year to remedy their infringements.

The 2003 Special Measures Act also amends, inter alia, Article 1 of Act 12/1997 on the Liberalisation of Telecommunications (which sets out the powers of the Telecommunications Market Commission, which has some responsibilities regarding the audiovisual market - see IRIS 1997-8: 11) and Act 31/1987 on Telecommunications (which regulates radio broadcasting).

The Catalan Government has also used a Special Measures Act to introduce an amendment to Catalan Act 2/2000, which regulates the Consell Audiovisual de Catalunya (Catalan Audiovisual Council, CAC - see IRIS 2000-6: 7). This new amendment expressly empowers the CAC to sanction broadcasters that do not adequately answer its requests for information.

The Special Measures Acts, which have been used since the mid-1990s by socialist and conservative Governments alike, have been severely criticised by many experts because of their heterogeneity and lack of transparency and because of the insufficient debate which precedes the approval of these Acts: each year the Special Measures Bill is usually presented in September/October, together with the Budget Bill, and both Bills are usually approved before the end of the year.

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Artículos 107 [modificación de la Ley 12/1997, de Liberalización de las Telecomunicaciones], 109 [modificación de la Ley 41/1995, de Televisión Local Por Ondas Terrestres], 110 [modificación del artículo 19 de la Ley 10/1988, de Televisión Privada], 111 [modificación de la Ley 10/1988, de Televisión Privada - régimen transitorio de aplicación de incompatibilidades], 112 [modificación del artículo 17.1.b de la Ley 10/1988, de Televisión Privada], 113 [modificación del artículo 24.2 de la Ley 10/1988, de Televisión Privada] y 114 [modificación de la Ley 31/1987, de Ordenación de las Telecomunicaciones, en relación con la radiodifusión sonora] de la Ley 53/2002, de 30 de diciembre, de medidas fiscales, administrativas y del orden social, B.O.E. n. 313, 31.12.1999, pp. 46169 y ss.

http://noticias.juridicas.com/base_datos/Admin/l53-2002.html

Articles 107 [amendment of Act 12/1997 on the Liberalisation of Telecommunications], 108 [amendment of Act 41/1995 on Local Terrestrial Television], 109, 110, 111, 112 and 113 [amendments of Act 10/1988 on Private Television] and 114 [amendment of Act 31/1987 on Telecommunications] of Act 53/2002 on Taxation, Administrative Provisions and Social Affairs of 30 December 2002, B.O.E. n. 313, 31 December 2002, pp. 46169 and ff.

Artículo 92 [modificación de la Ley 2/2000, de 4 de mayo, del Consejo Audiovisual de Cataluña] de la Ley de Cataluña 31/2002, de 30 de diciembre, de medidas fiscales y administrativas, Diario Oficial de la Generalitat de Cataluña n. 3791, de 31.12.2002, p. 23187

http://www.gencat.es/diari_c/3791/02358100.htm

Article 92 [amendment of Act 2/2000 on the Catalan Audiovisual Council] of Act 31/2002 on Taxation and Administrative Provisions of 30 December 2002, Catalan Official Journal of 31 December 2002, p. 23187

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