[IT] Italian Main Broadcasters are Dominant on the Market

IRIS 2003-9:1/20

Maja Cappello
Autorità per le garanzie nelle comunicazioni (AGCOM)

Pursuant to Article 2, paragraph 7, of the Act no. 249/97, Istituzione dell'Autorità per le Garanzie nelle Comunicazioni e norme sui sistemi delle telecomunicazioni e radiotelevisivo (Communications Act of 31 July 1997 , hereinafter "the Act" see IRIS 1997-8: 10) and to the Regulation no. 26/99, Regolamento in materia di costituzione e mantenimento di posizioni dominanti nel settore delle comunicazioni (Dominant Positions Regulation

see IRIS 1999-7: 11), on 26 June 2003 the Autorità per le Garanzie nelle Comunicazioni, (Italian Communications Authority AGCOM) adopted Decision no. 226/03/CONS and established that RAI, RTI and Publitalia exceeded the concentration thresholds envisaged by the Act and occupied a dominant position on the Italian television broadcasting market.

According to Article 2, paragraph 8, lit a) of the Act, a dominant position is presumed when a broadcaster receives more than 30% of the economic resources of the broadcasting sector. The first application of this provision led to decision no. 365/00/CONS (Accertamento della sussistenza di posizioni dominanti ai sensi dell'articolo 2,

comma 9, della legge n. 249/97 see IRIS 2000-7: 7) in which AGCOM ascertained that two economic entities

- RAI & Sipra and RTI & Publitalia, i.e. the two main Italian broadcasters and their advertising agencies - had both exceeded the thresholds in 1997, but that their positions on the market, though dominant, had been reached by means of a spontaneous growth of their undertakings without restricting competition or pluralism.

In accordance with decision no. 212/02/CONS of 3 July 2002 (see IRIS 2002-8: 9), AGCOM started proceedings in order to analyse the distribution of economic resources in the broadcasting sector in the three-year period 1998-2000. Decision no. 13/03/CONS, adopted on 9 January 2003, concluded these proceedings and stated that the two economic entities composed by RAI-Sipra and RTI-Publitalia, both exceeded the thresholds established by the mentioned provision of the Act. On the same day, AGCOM adopted decision no. 14/03/CONS opening proceedings in order to verify, within 4 months, the effective existence of prohibited dominant

© European Audiovisual Observatory (Council of Europe) 2026

positions on the market, which might impair pluralism.

Decision no. 226/03/CONS concluded the analysis, confirmed that RAI, RTI and Publitalia were dominant on the market and warned them to avoid unlawful acts or behaviour. A new market analysis will be concluded by 30 April 2004 on the three-year period 2001-2003 and, should the situation persist and the conclusions of the judgment of the Constitutional Court declaring the Communications Act partly unconstitutional (see IRIS 2003-3: 13) not be respected, AGCOM is also deputed to impose sanctions on the broadcasters concerned, which may consist in an order to split the undertakings or assets composing the economic entities.

Delibera n. 226/03/CONS, Procedimento finalizzato alla verifica della sussistenza delle posizioni dominanti nel settore televisivo ai sensi dell'art. 2, comma 7 della legge 31 luglio 1997 n. 249, Gazzetta Ufficiale della Repubblica italiana del 2 agosto 2003, n. 178 - Suppl. Ordinario n. 126

http://www.agcom.it/provv/d_226_03_CONS.htm

Decision of the AGCOM of 26 June 2003, no. 226/03/CONS, Proceedings to verify the existence of dominant positions in the television sector pursuant to art. 2, paragraph 7 of Law no. 249/97, Official Gazette of 2 August 2003, no. 178, ordinary supplement no. 126

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026