[PL] New draft Amendment to the Broadcasting Act

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As the previous draft of comprehensive amendments to the Broadcasting Act of 29 December 1992 (Dz. U. of 2001, No. 101 Item 1114, as amended), was rejected by Parliament on 30 July 2003, the Government has prepared a new draft, which is in regard to its content reduced in certain aspects. The Council of Ministers adopted on 21 October 2003 draft legislation to adapt the Broadcasting Act in line with the Directive 89/552/EEC, amended by the Directive 97/36/EC the so-called Directive "Television Without frontiers". They also tailor national legislation to the principles underlying Community law, with the aim of allowing entities from the European Economic Area to pursue broadcasting operations in Poland, which entails capital requirement liberalization.

The amendments lay down specific criteria which permit the identification of the jurisdiction over broadcasters within the framework of the internal legal order, in compliance with the Directive "Television Without Frontiers". The following criteria were taken into account:

- the location of the head office,

- the place where a significant part of a workforce involved in the pursuit of the television broadcasting activity operates,

- the place where decisions on program structure and contents take place,

- the setting up of its operations by a broadcaster subject to the laws of the Republic of Poland while maintaining by a broadcaster a stable and effective link with the economy of Poland.

The law will also apply, in well-defined situations, to broadcasters that avail of or use a frequency subject to a decision issued by a Polish administrative body, or avail of a satellite utilizing orbit capabilities reserved by a Polish administrative body, or make use of a station located within the territory of the Republic of Poland which sends signals to the satellite.

The draft also contains detailed provisions referring to European quotas, including a definition of "European programmes" in compliance with the Directive "Television Without Frontiers". The obligation to allocate most of the broadcasting time to European programmes has been adopted in a normative formula that will

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facilitate its effective observance. The term "programmes made by European producers" was reworded as "European programmes" in compliance with the aforementioned Directive. The notion of the European programme was incorporated into the concept of the independent European quota. The deadline by which it will be obligatory to give preference to most recent productions within this quota has been changed and now it is 5 years instead of 3.

The draft proposes changes that will allow foreign entities from the European Economic Area to enjoy full capital liberalization as from the 1 May 2004. The draft Amendment also proposes that by that time the share of foreign capital in Polish broadcasting companies would be raised to 49% for other foreign entities.

The draft also includes provisions on the protection of minors, advertising and teleshopping, as well as provisions referring to interruption of feature films and films made for television, and provides more detailed provisions on the scope of situations where according to a registration procedure retransmission shall be refused or when the registering authority shall impose a ban upon the cable network operator to retransmit a programme service, again in compliance with the requirements of the Directive.

In addition the draft embraces a set of provisions aiming at achieving compliance with the acquis communitaire referring to compensation by the State for the services provided in the general interest.

It is envisaged that the draft would be delivered to the Speaker of the Polish Parliament soon.

Communication of 21 October 2003 released after the meeting of the Council of Ministers

Information of the Ministry of Culture on the draft Amendment to Broadcasting Act of 16 October 2003 ("Nowelizacja ustawy o RTV")

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