[ES] Amendment of Several Provisions Relating to Media Law

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On 30 December 2003, the Spanish Parliament approved the Ley de Medidas fiscales, administrativas y del orden social (Act 62/2003, on Taxation, Administrative Provisions and Social Affairs), which partially amends some existing norms relating to media law.

An Act on taxation, administrative provisions and social affairs (hereinafter referred to as "Special Measures Act") is approved each year, together with the Budget Act (see also IRIS 2003-2: 8 and IRIS 2000-2: 13). The main objective of the Special Measures Act is to introduce amendments in existing provisions, thus acting as a "container" of amendments. For example, this year's Special Measures Act amends more than thirty different Acts, including the following: Act 41/1995, on Local Terrestrial TV

The "Special Measures Act" of 2002 established that Local Terrestrial TV had to be broadcast using only digital technology. However, the "Special Measures Act" of 2003 has established that those entities which are awarded a concession for the provision of Local Terrestrial TV services may ask for a two-year moratorium. During that period, they may be allowed to broadcast using analogue technology. The Special Measures Act of 2003 allows the Government to modify the term of the moratorium, so it can duly take into account the pace of the implementation of digital TV in Spain. Act 10/1988, on Private Television

The new amendments of this Act deal mainly with limits to ownership in terrestrial TV concessionaires.

Currently, an undertaking that has more than 5 % of the share-capital or voting rights of one TV concessionaire shall not be allowed to have a relevant holding in any other TV concessionaire whose coverage area overlaps.

The new rules also establish that an undertaking that has more than 5 % of the share-capital or voting rights of one national TV concessionaire shall not be allowed to have a relevant holding in any regional or local TV concessionaire whose potential audience in any of these coverage areas exceeds 25 % of the Spanish population. A similar limit is established for the regional TV concessionaires, in relation to local TV concessionaires whose potential audience exceeds 25 % of the population of the region in question.

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It is also forbidden to have relevant holdings in the share-capital or voting rights of national, regional and local TV concessionaires whose programs can be simultaneously received in the same area.

For the purposes of these rules, the holdings of at least 5 % of the shares or voting rights of a TV concessionaire shall be deemed as "relevant holdings". The Act also establishes how to determine which shares are under the control of a specific natural or moral person.

The Act introduces some new provisions relating to the procedure to be applied when these ownership limits are breached, and it also provides for a 1-year moratorium for the application of these limits as regards national digital terrestrial TV concessionaires.

The Special Measures Act for 2003 also introduces new provisions that oblige digital TV concessionaires to broadcast original TV programmes for at least 4 hours a day and 32 hours a week, including the obligation to broadcast some of those original TV programmes during prime time (between 13:00 and 16:00 and between 20:00 and 23:00). These provisions also set limits to networking agreements relating to the provision of regional or local digital terrestrial TV services.

The Special Measures Acts, which have been used since the mid 90's by socialist and conservative Governments alike, have been severely criticized 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 Bill of the Special Measures Act is usually presented in September/ October, together with the Budget Bill, and both bills are usually approved before the end of the year.

Additional Provisions: Thirtieth [Obligations related to programming and limits to networking agreements], Thirty-First [amendment of the Act 41/1995, on Local Terrestrial TV], Thirty-Second [amendment of the Act 10/1988, on Private Television], and Forty-Fourth [Digitalisation of radio broadcasting] of the Act 62/2003, on Taxation, Administrative Provisions and Social Affairs of 30 December 2003, BOE n. 313, 31 December 2003, pp. 46874 and ff.

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