[FR] Law on Electronic Communications and Audiovisual Communication Services Promulgated

IRIS 2004-8:1/15

Amélie Blocman
Légipresse

On 1 July the French Constitutional Council validated all the provisions of the law on electronic communications and audiovisual communication services with no reservations on their interpretation (see IRIS 2004-3: 8). The text transposes into French national law the six Community Directives of the "Telecoms Package". In addition to many changes made to the Post and Telecommunications Code, which is now to be called the "Post and Electronic Communications Code", the law largely amends the Act of 30 September 1986 on audiovisual communication.

The missions of the Conseil supérieur de l'audiovisuel (audiovisual regulatory body - CSA) are set out in greater detail and its powers strengthened. The new law lays down the details of the CSA's relationship with the Conseil de la concurrence (national competition board) on economic supervision, more particularly with a view to settling disputes between editors of services and distributors. Worthwhile changes have also been made to the sanction procedures; the CSA will now be able to decide on pecuniary sanctions for acts that constitute criminal offences, eg inciting racial hatred. In this respect the CSA has new powers in respect of non-European channels broadcast on satellites under French control.

The new law also lays down the rules for the CSA allocating frequencies and defines the various procedures for issuing authorisations for terrestrial broadcasting in analog and digital modes, and authorisations for services other than terrestrial broadcasting. The scope of the CSA's work is thus extended to the media of Internet and ADSL. A further wide-ranging area of the new law relaxes the anti-concentration scheme applicable to television services broadcast terrestrially and changes the anti-concentration provisions applicable to radio and television services broadcast terrestrially in analog mode and in digital mode. The ceiling for holdings in local terrestrially-broadcast television channels is also abolished. On this point the Constitutional Council felt that such a relaxation "did not deprive the constitutional objective of diversity in currents of ideas and opinions of its legal guarantees; this remained a condition for the CSA issuing authorisations". For radio, the new wording of Article 423 of the 1986 law allowed the CSA the possibility of authorising changes in the holders of authorisations, accompanied as necessary by a change in the radio category, without having to use the procedure of calling for applicants. Such changes waiving the call for applicants should, however, remain the exception and strictly supervised, as the

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CSA stated in its Communiqué No. 565 of 29 July devoted specially to this subject. The new law on digital radio also makes provision for a permanent legal framework.

Loi n° 2004-669 du 9 juillet 2004 relative aux communications électroniques et aux services de communication audiovisuelle, JO 10 juillet 2004

http://www.legifrance.gouv.fr/

Act No. 2004-669 of 9 July 2004 on electronic communications and audiovisual communication services, Official Journal of 10 July 2004

Décision n° 2004-497 DC du 1er juillet 2004 du Conseil Constitutionnel, JO 10 juillet 2004

http://www.legifrance.gouv.fr/

Decision No. 2004-497 DC of 1 July of the French Constitutional Council, Official Journal of 10 July 2004

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