[PL] New Telecommucations Law Adopted

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The legal framework for broadcasting activities consists of more than only the Broadcasting Act. There are e.g. regulations issued by the National Broadcasting Council, the Press Law, and some other specific provisions. Also the Telecommunications Law contains regulations relevant for broadcasters.

The Telecommunications Act of 16 July 2004, which entered into force on 2 September 2004, provides a completely new legal framework for telecommucations activities. It implements the EC framework on electronic communications of 2002.

The Act specifies that the term "telecommunications activity" includes the provision of telecommunication services, telecommunication networks and associated facilities.

Furthermore it describes the principles of performing telecommunication activities and their supervision, rights and obligations of telecommunications business operators, end users, rules for regulation of telecommunications markets and for universal service provision, the regime for the use of frequencies and satellite capacity (including reservation of radio and television frequencies for broadcasting purposes), the conditions of processing of personal data in the telecommunication sector, requirements for technical equipment, etc.

Among the provisions particularly important for the audiovisual sector are those referring to the reservation of frequencies for broadcasting purposes, the bill stipulated that frequency reservations for broadcasting purposes - regardless of their being used for analogue or digital transmissions - as well as its alterations and revocations are made by the Chairman of the National Broadcasting Council, in agreement with the President of the Telecommunications and Post Regulatory Office. The distribution of frequencies for digital broadcasting purposes has to be carried out on the basis of a competition conducted by the National Broadcasting Council. The Act defines the requirements and procedures for this competition, as well as the issues to be considered in the decision on frequency reservation.

Another important set of provisions refers to the registration requirements of the telecommunication activity (as defined above); so, for example, exploitation of the telecommunications network used for transmission or retransmission of radio or television programme services is subject to registration. According to the

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previous law, a telecommunications permission was required.

Nevertheless, according to the Broadcasting Act the broadcasting of a programme service still requires a broadcasting licence awarded by the Chairman of the National Broadcasting Council. In most cases the registering authority will be the President of the Telecommunications and Post Regulatory Office, but with regard to conditional access systems, electronic programme guides and digital signal multiplexing the registering authority will be the Chairman of the National Broadcasting Council.

One separate part of the new act is devoted to digital radio and television transmissions; it contains provisions relating to interoperability of the digital radio and television transmissions, open API, CA and EPG systems.

Interoperability of digital radio and television transmission services shall be ensured in respect to networks and devices used for the reception of digital radio and television transmissions, in particular by using an open application programme interface. More detailed requirements regarding interoperability will be included in a regulation issued by the Ministry of Infrastructure.

Telecommunications business operators providing conditional access systems are obliged to offer the broadcasters, on equal and non-discriminating terms, technical services enabling reception of digital radio and television transmissions by the means of decoders installed in their networks as well as possessed by the subscribers. More detailed conditions regarding this obligation may be set out in a regulation issued by the Ministry of Infrastructure, in agreement with the National Broadcasting Council.

Moreover, regarding conditional access services, rightsholders of industrial property rights to CA systems are obliged to conclude licence agreements with producers of consumer devices for reception of the digital radio and television transmissions, on equal and non-discriminatory terms. In particular, provisions of those agreements shall not prohibit, restrict or discourage the inclusion in such a device of a common interface, which enables connection with other conditional access systems as well as with elements of other conditional access systems (providing that conditions guaranteeing safety of transactions done by CA systems' operators are observed).

In addition, the Chairman of the National Broadcasting Council may, by virtue of the decision, impose on a telecommunications business operator an obligation to ensure access to API and electronic programme guides, in order to make digital radio and television transmission services accessible to end users.

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Ustawa z dnia 16 lipca 2004 r. Prawo Telekomunikacyjne, Dziennik Ustaw 2004 No 171, item 1800

Telecommunications Act of 16 July 2004, Official Journal "Dziennik Ustaw" of 2004 No 171, item 1800

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