[ES] Cable television law

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On Thursday, 14 December 1995 the national Parliament adopted the final text of the Cable Telecommunications Act. Voting was not unanimous, with 186 votes in favour from the PSOE (Spanish Socialist Worker's Party) and the CIU (Centre) and 126 votes against from the Grupo Popular (Right Wing). This is the final stage of legislation which has given rise to much controversy and objections from the political opposition and the audiovisual sector. Amendments and criticism of the provisions of the Act have come from Antena 3 Televisión and a number of nation-wide consortia (including the operator Multivisión) and regional groups (as in Catalonia and the Basque Country), supported by their respective governments.

There are two main points at issue. The first is the situation brought about by the agreement last July between Telefónica and Canal + to create Cablevisión , as the Act consolidates its competitive advantage over those companies now achieving the status of second operator under the new Act (at the time of writing, this had not yet been published in the Spanish official gazette). The second concerns the limitations placed on companies obtaining broadcasting licences.

Key points of the Act

- Operators' licences are to be allocated by the Ministry of Public Works, Transport and the Environment by means of open competition, and will be granted under a system of indirect management.

- Territorial limits for operators: two licences may be granted for each area of between 50 000 and 2 million inhabitants. The areas are to be determined by the local and regional authorities.

- Limit on number of subscribers or concentration of ownership: taking together all the operators in which it has an interest, no operator may serve more than 1 500 000 subscribers.

- Charges for use may be freely determined, except as regards the distribution of public, community and local television, which shall be compulsory for operators within their territories.

- Programme planning to include independent producers: the Act requires that at least 40% of the total programme time be reserved for this, except where supply

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is insufficient. Telefónica service: in principle the Act requires Telefónica to supply its infrastructures to any operator " subject to the principles of neutrality, transparency and non-discrimination ". Indeed these were the terms used by the Chairman of the company Cándido Velázquez as regards criticism of the priority contract with Canal +.

This leaves no hope of a different attitude in respect of the Directives on ONP (Open Network Provision).

- Publicity and sponsoring: as regards programme planning, reference is made to Act 25/1994, transposing the Directive on "Television without Frontiers", which will be compulsory for broadcasters serving more than 50% of the subscribers in any one Autonomous Community, or in the case of national networks, 25%. Starting point for free competition The Act prevents those companies which had not started operating their cable services before the Act had been approved starting up for a number of months yet, as they must await publication of the Regulations; this should take place within two months, so that those companies which had planned for that point in time have a clear advantage as regards the challenge of January 1996, date of the commercial launching of this type of television, much awaited in Spain.

Cablevisión and Multivisión are the two operators currently providing services, before the Act comes into force. The latter at present has no proper entitlement to do so, although it is hoped that the Ministry will acknowledge the de facto situation within thirty days.

Cablevisión is already present in 16 cities (including Tenerife, Las Palmas, Pamplona, Bilbao, Lérida, Murcia, Santander and Barcelona), with 2600 homes already connected, receiving 41 channels for 2675 pesetas.

Multivisión is present in Seville, Palma de Mallorca, Oviedo, Gijón and Murcia, offering twenty channels for 1500 pesetas in the first two months and 3000 pesetas a month thereafter.

Telefónica will be able to provide television services in the same way in an area where it has already begun to provide this service by the second operator through companies in which it holds less than 50% of the capital. The Act stipulates that the necessary steps must be taken to ensure that subsidies to the basic telephone system remain separate from these other interests.

The market is now open, although there are considerable restrictions. It is to be hoped that the speed and wealth of the new communications will rapidly counteract the irrational limits of the Act.

Ley de Televisión por Cable de 14 de diciembre de 1995.

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