[ES] New Act on the Promotion of Digital Terrestrial Television

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The Spanish Parliament has approved a new Act on the promotion of digital terrestrial TV, which also includes some provisions related to cable TV and media concentration. This new Act partially amends some previous Acts:

- Act 31/1987, on the Regulation of Telecommunications: The new Act establishes the sanction that must be imposed upon broadcasters that provide TV or radio services without having been granted a concession prior to broadcasting (art. 25 of the Act 31/1987). The new Act also amends the ownership limits in the radio sector (Sixth Additional Provision of the Act 31/1987): a natural or legal person may control up to 50% of the radio concessions available in a certain area, insofar the total number of overlapping radio concessions controlled in that area is not above five. A person can also control up to a third of the radio concessions with total or partial coverage of the State.

- Act 10/1988, on Private TV: The new Act abrogates article 4.3 of the Act 10/1988, which limited the number of national analogue terrestrial TV concessions to three. Now, the Government may grant new national analogue terrestrial TV concessions, if there are frequencies available. Some opposition parties and existing broadcasters have argued that creating new national analogue terrestrial TV broadcasters will be detrimental to the implementation of digital terrestrial TV in Spain. The Government does not share this view, and it considers that this decision may have positive consequences, such as the increase of competition and pluralism. The new Act has also amended the Third Additional Provision of Act 10/1988, which now establishes that it will be possible to simultaneously hold a national analogue terrestrial TV concession and a digital one until the analogue switch-off takes place.

- Act 41/1995, on Local Terrestrial TV: The new Act allows regional governments to reserve local governments up to two digital terrestrial TV programme services in a local multiplex (art. 9.1). It also allows regional governments to make it easier for current local broadcasters to obtain a DTT license compared with new entrants (art. 9.3). The duration of the local terrestrial TV concessions is extended from 5 to 10 years (art. 14). The deadline established by the Act 41/1995 for the granting of these concessions by the regional Governments is extended until 31 December 2005 (Second Transitional Provision, third paragraph). Those which were lawfully

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providing local terrestrial TV services using analogue technology will have to provide the service using digital technology, but may keep providing the analogue service until 2008, provided there are frequencies available ((Second Transitional Provision, Fifth paragraph). No legal or natural person may own more than one concession in a certain area.

- Act 32/2003, Telecommunications Act: The Act 32/2003 had liberalized the cable TV market, but had established that this liberalization would only be effective after a transitional period. The new Act amends the Tenth Transitional Provision of the Act 32/2003, and it establishes that the liberalization will be effective as soon as the Government approves a Decree regulating how the new cable TV licences will be granted.

The new Act also amends other legal provisions (e.g., the Decree-Law 1/1998, on common telecommunications infrastructure in new buildings); it grants regional Governments a second regional DTTV multiplex; and it includes some new provisions related to the access to digital terrestrial TV by disabled people and to the promotion of the use of regional languages by the digital terrestrial public broadcasters.

The approval of this Act has been quite controversial. The Government considered it necessary to approve it using the procedure established for urgent measures, but some opposition parties were of the opinion that the Government was trying to avoid an in-depth parliamentary debate on the regulation of this area, and that allowing for the creation of new national analogue TV broadcasters was a negative move for the implementation of DTTV. Some opposition parties have also claimed that the ownership levels established for the radio sector do not limit media concentration in that sector, but rather encourage the opposite. The Government considers that it was necessary to put an end to the uncertainty created by a Judgment of the Supreme Court related to this issue, and which, four years later, had not yet been enforced by the former Government.

In any case, all parties agree that it is necessary to draft a new general bill on radio and TV, which should unify the existing regulation of the audiovisual sector; set up the basic principles concerning licensing, public broadcasting and safeguarding of pluralism; and create a national independent audiovisual regulatory authority. The Government expects to present this bill to the Parliament in the next few months, and it also intends to re-allocate the concessions for the management of the DTTV multiplexes that are currently not being used after the failure of Quiero TV.

Ley 10/2005, de 14 de junio, de medidas urgentes de impulso de la televisión digital terrestre, de liberalización de la televisión por cable y de fomento del pluralismo, Boletín Oficial del Estado n. 142, de

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Act 10/2005, on urgent measures for the promotion of digital terrestrial TV, liberalization of cable TV and promotion of media pluralism

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