[PL] Changes concerning Regulatory Authorities

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The audio-visual sector in Poland is governed mainly by the Brodcasting Act of 29 December 1992 (Journal of Laws of 2001 No. 101, Item 1114 as amended) and, in the field of new technologies, by the Telecommunications Law of 16 July 2004, replacing the Law of 21July 2000 (Journal of Laws 2004 No. 171 Item 1800 as amended).

Therefore, until the latest revision of the Broadcasting Act and other Laws of 29 December 2005, the National Broadcasting Council (NBC), together with the President of the Office of Telecommunications and Post Regulation (OTPR) have both acted as regulatory bodies in the audio-visual media sector.

In the gradually-built digital environment they have cooperated particularly closely. The activities of the NBC included wide-ranging tasks and competencies of cooperation with the parliament, government and some other authorities (e.g. with the President of OTPR and the President of the Office for Competition and Consumer Protection) in creating and supervising media policy in Poland. In particular, it has acted in the area of preparing opinions, documents, participation in appropriate consultations, granting licences, registering the retransmission of a program service, monitoring and supervising both private and public broadcasters, etc. The President of the OTPR, jointly with the Minister competent for communications were the national regulatory bodies in the field of postal and telecommunication services, as well as of frequency management.

The latest revision of the Broadcasting Act aims at: 1) changes to the composition of the NBC, 2) liquidation of OTPR, and 3) appointment of an Electronic Communication Office (ECO). The Act determines the principles and scope of the transformation of the above mentioned organs, their tasks and competencies.

According to the new provisions, the NBC shall consist of 5 members (previously: 9 members) of which 2 shall be appointed by the Sejm (lower chamber of the parliament), 1 by the Senate and 2 by the President, from amongst persons with a distinguished record of knowledge and experience in mass media matters. The Chairman of the NBC shall be appointed by the President from the members of the Council (until 2006 he was elected "by members of the Council"). The NBC shall adopt resolutions by a 2/3 majority of the votes of the total number of its members (until 2006 "by an absolute majority"). The term of all the former

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members of NBC has expired. Now both the chambers of parliament and the President are expected to appoint new members immediately.

According to the amendments, the specialised central body of government administration in the field of telecommunications - President of OTPR - has been disestablished. Its competencies were entrusted to a newly established authority, the President of the Electronic Communication Office. The President is appointed and dismissed by the Prime Minister from 3 candidates proposed by the NBC, (previously: “on the motion of the Minister competent for communications”). This new organ will be established immediately after the NBC has been newly constituted.

It should be pointed out that some important competencies of the NBC, in particular concerning the digital environment, have been handed over to the President of the ECO (however with the obligation to act on media issues in agreement with the President of the NBC). Concerning granting, changing and revoking the reservation of radio and television frequencies, the President of the ECO is authorised to change the conditions of using or revoking audio-visual media reservations of frequencies. In the case of an insufficient number of frequency resources the President of the ECO is also authorised to determine the conditions for a competition and leads the consultation procedure (which precedes the competition).

The above-mentioned new legal regulations seem to be part of a wider process of changing the present audio-visual system in Poland. Therefore, they have caused a lot of discussions, doubts and controversies. For instance, the former NBC issued an official declaration enumerating a lot of formal reservations, concerning legal and procedural matters. On the other hand, the parliamentary project of amendments was accepted by the government of Poland. Then, the President of Poland approved the changes and countersigned them.

Ustawa z dnia 29 grudnia 2005 r. o przekształceniach i zmianach w podziale zadań i kompetencji organów państwowych właściwych w sprawach łączności, radiofonii i telewizji (Dz. U. z dnia 30 grudnia 2005 r.)

http://www.abc.com.pl/serwis/du/2005/2258.htm

Amendments to the Broadcasting Act and other Laws of 29 December 2005: Journal of Laws of 2005 No. 267, Item 2258.

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