[FI] Lighter Regulatory Touch for DVB-H Mobile TV in Finland

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On 22 December 2006, the *Laki televisio- ja radiotoiminnasta annetun lain 4 ja 7 §:n muuttamisesta* (Act on the Amendment of Sections 4 and 7 in the Act on Television and Radio Operations) was ratified. This Act entered into force on 1 January 2007.

The change in legislation was made in order to introduce a lighter touch in the process of issuing programme operating licences for mobile television operations using the DVB-H standard or equivalent transmissions. At the moment one such multiplex is being established in Finland.

In Finland, two licences are required for digital television (and radio) broadcasting operations. First of all, according to the Communications Market Act (393/2003) a network operating licence is required for the building of a digital network. Secondly, according to the Act on Television and Radio Operations (744/1998) a programme operating licence is required for a radio or television channel.

In traditional digital terrestrial television operations, the network operating licences and the programme operating licences are granted by the Government through a discretionary procedure (‘beauty contest’).

In the case of DVB-H television, Finland has deviated from this model and chosen a considerably simpler process. The amendment of the Act on Television and Radio Operations makes granting of programme operating licences for DVB-H the task of the Finnish Communications Regulatory Authority (FICORA), the independent communications regulator. There will be no rounds of invitations for applications as is the case with traditional television, but instead applications can be filed as needed. Programme operating licences are required for radio and television channels only. Other services such as video on demand, multimedia and information society services can be offered without a programme operating licence by direct arrangement with the network operating licensee. However, the public service broadcaster YLE and the commercial digital terrestrial television licensees do not need a separate programme operating licence for simulcasts on the DVB-H network. Commercial negotiations are required with the network operating licensee, i.e. Digita, to access the network.

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When granting programme operating licences for DVB-H, the Finnish Communications Regulatory Authority is confined to use bound consideration. The Authority must grant an operating licence if there are no reasons to suspect the applicant of offences against this or any other Act concerning television or radio operations.

On the basis of the preamble to the bill on DVB-H it is clear that from a copyright perspective, a parallel transmission is seen as the same transmission as an original digital terrestrial transmission. A parallel transmission is a simultaneous and unaltered transmission of the same programmes by the same transmitting organisation on another platform. It is assumed that the rights to the primary transmission also cover a parallel transmission. This is primarily a contractual matter.

Sections 10, 11, 13 and 14 in the Act on Television and Radio Operations are not applicable to DVB-H.

Laki televisio- ja radiotoiminnasta annetun lain 4 ja 7 §:n muuttamisesta

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