[PL] New Amendment to Polish Broadcasting Act Adopted

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On 18 March 2008, the *Sejm* , the lower chamber of the Parliament, adopted an Act amending the Broadcasting Act and some other Acts. The other legal acts that were subject to amendment are the Telecommunications Law and the Law on Higher Education. The new Act was passed to the Senate and the President of the Republic of Poland on 19 March 2008.

The newly adopted Act comprises changes regarding the division of tasks and powers of State regulatory authorities in charge of communications (Office of Electronic Communications - OEC) as well as radio and television broadcasting (National Broadcasting Council - NBC), and governs the procedure for making such changes.

According to the new bill, an important part of the existing competencies of the National Broadcasting Council will, in the future, be taken over by the Office of Electronic Communications. Notably, broadcasting licences will be awarded by the President of the OEC. However, the President of the OEC shall take decisions as regards broadcasting licences having sought the opinion of the NBC on the non-economic national interests linked to culture, language and media pluralism and on some other aspects specified in the Broadcasting Act. These include (i) the degree of compliance of the proposed programming activities with the tasks of broadcasting taking into account the degree of their implementation by other broadcasters in the area covered by the broadcasting licence, (ii) the applicant's ability to make the necessary investments and ensure financing of the programme service, (iii) the estimated share of programmes produced or commissioned by the broadcaster or co-produced by the broadcaster jointly with other broadcasters, (iv) the past compliance with regulations governing radio communications and the mass media, (v) the planned share of the programmes originally produced in the Polish language and European works in the television programme service, or of compositions performed in the Polish language in the radio or television programme service.

However, it will still be the minister in charge of culture and national heritage, having sought the opinion of the President of the OEC and the NBC, who shall specify by regulation the formal requirements of the application form, the information to be provided in the application, and the way in which it has to be

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submitted.

The President of the OEC will be responsible for other tasks specified in the Broadcasting Act in addition to those mentioned above: he/she will also control the activity of broadcasters and entities, except the control of programming activities of the broadcasters according to provisions of the Broadcasting Act (which will be conducted by the NBC). Other new tasks of the OEC's President will be to keep a register of programme services retransmitted in cable networks (the President of the OEC shall register a programme service to be retransmitted on the basis of a notification), to award or deprive broadcasters the status of a social broadcaster (on the terms and conditions set forth in the Broadcasting Act), to organise and initiate, in agreement with the NBC, foreign co-operations in the area of radio and television broadcasting.

The NBC shall safeguard freedom of expression, the right to information as well as issues of public interest regarding radio and television broadcasting. These goals will be mainly realised by controlling the implementation of programming standards as envisaged in the Broadcasting Act. The current competencies of the NBC are broader and include *inter alia* developing, in agreement with the Prime Minister, the directions of the State policy with respect to radio and television broadcasting.

According to the new Act, the Chairman of the NBC will not be authorised to fine a broadcaster who has failed to comply with programming standards established by the Broadcasting Act. If the broadcaster, within 30 days after being called upon by the Chairman of the NBC, fails to cease practices that infringe upon the provisions of the Broadcasting Act or licence requirements, the Chairman of the NBC shall request the President of the OEC to initiate proceedings aimed at imposing a fine or issuing a decision revoking the licence. Only the President of the OEC is authorised to impose respective fines.

Under the new Act, an important part of the NBC's tasks will be to conduct competitions for positions of management board members and supervisory board members in public radio and television broadcasting companies. Currently, the NBC appoints only members of supervisory boards in the public radio and television; however, one member of the supervisory board is appointed by the minister in charge of the State Treasury.

According to the new Act, the NBC shall consist of three members appointed by the *Sejm* , two members appointed by the Senate and two members appointed by the President from amongst persons with a distinguished record of knowledge and experience in public media, with at least two recommendations from university or higher education institutions or national associations of creators or journalists.

The new Act is currently under examination by the Senate.

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Ustawa z dnia 18 marca 2008 r. o zmianie ustawy o radiofonii i telewizji oraz niektórych innych ustaw

http://www.sejm.gov.pl/

Act of 18 March 2008 amending the Broadcasting Act and some other Acts

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