[IT] Increased Sanctions for Violations of Advertising Provisions

IRIS 2008-10:1/33

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On 6 June 2008, the Italian Parliament converted into law the Decree-Law no. 59/2008 aiming at solving pending infringement procedures with regard to Community law. One of the procedures concerns the ineffectiveness, according to article 3, paragraph 2, of the Directive Television without Frontiers, of the existing provisions regulating the sanctioning procedures to be applied in case of violations of provisions on advertising. The Commission sent a letter of formal notice to Italy on 11 December 2007, pointing out that the height of the sanctions appeared not to be sufficiently dissuasive and that the structure of the sanctioning procedure was too long.

In order to reduce the possible profit that broadcasters could derive from violations in this field and taking into consideration the economic difference between the high revenues deriving from unlawful advertising spaces and the low fines applied for the violations, the new provisions modify the Broadcasting Code (see IRIS 2005-9: 14) and increase the minimum and maximum amounts of the sanctions from EUR 5,165/51,646 to EUR 10,329/258,228. Additionally, the possibility for broadcasters of shortening the procedure and possibly avoiding higher sanctions by paying a reduced amount (the double of the minimum applicable) immediately and thus closing the procedure has been deleted.

As the Commission had also referred to the excessively long duration of the procedure, the new provisions have eliminated the intermediate stage of issuing a warning between the formal notice to the broadcaster and the adoption of the fine. The practical effect of this change is that, instead of having to wait for a new violation after the warning in order to apply the sanctions, the Communications Authority (AGCOM) is entitled to apply them immediately, providing the justifications offered by the broadcaster have not been accepted.

The new provisions apply to violations occurring after the entry into force of the law, i.e. after 7 June 2008, whereas for all pending procedures the previous provisions will continue to apply.

Legge 6 giugno 2008, no. 101/2008 "Conversione in legge, con modificazioni, del decreto-legge 8 aprile 2008, n. 59, recante disposizioni urgenti per l'attuazione di obblighi comunitari e l'esecuzione

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di sentenze della Corte di giustizia delle Comunità europee"

http://www.senato.it/loc/link.asp?tipodoc=leggigu&id=101&anno=08

Act 101/2008 of 6 June 2008, converting into law the Decree-Law no. 59/2008 aiming at solving pending infringement procedures with regard to Community law, Gazzetta Ufficiale n. 132, 7 June 2008

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