European Commission: Commission Requests Information from Spain on New Charge on Operators

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In March 2010, the European Commission sent a letter of formal request for information to Spain under EU infringement procedures (Article 258 of the Treaty on the Functioning of the European Union) in relation to a new administrative charge imposed on national telecoms operators. The charge, which amounts to 0.9% of the yearly turnover of telecoms operators, was introduced through Spanish Law 8/2009 on the funding of the Spanish Radio and Television Corporation in order to offset the elimination of paid advertising on the Spanish public service broadcaster *Corporación de Radio y Televisión Española* (RTVE) (see IRIS 2009-8: 11/16 and IRIS 2010-1/18). A limited number of operators were exempted from paying the charge on the basis of their geographical scope and the type of services they provide.

The Commission is concerned that the provisions of the new law could be incompatible with EU law, as the charge does not appear to be related to costs arising from regulatory supervision. It thus unduly burdens the companies in question, possibly limiting their investments in new networks and advanced services. According to the provisions of the Authorisation Directive (Directive 2002/20/EC) charges on telecoms operators may only be imposed in order to finance certain administrative and regulatory activities and should be transparent, objective and proportionate. In addition, interested parties should be consulted in the appropriate manner.

The Commission opened a formal State aid investigation into the new funding scheme in December 2009. The formal request for information is without prejudice to that investigation.

If the Spanish Government does not respond to the formal request or if the observations the Government presents are not satisfactory, the Commission may issue a “reasoned opinion” under EU infringement procedures, requesting that Spain amend the legislation in question to ensure compatibility with EU rules.

“Telecoms: Commission requests information from Spain on new charge on operators; closes infringement case on universal service”, IP/10/322, Brussels, 18th March 2010

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