[SK] Amendment of the Act on Broadcasting and Retransmission

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On 15 December 2009 the latest amendment (No. 498/2009 Coll.) of the Act No. 308/2000 Coll. on Broadcasting and Retransmission (hereinafter referred to as “the Act”) came into effect. This amendment transposes the Directive 2007/65/EC (hereinafter referred to as “the Directive”) into the Slovak legal system.

Several important changes have been brought about by this transposition. The scope of regulation of the Act has become broader according to the Directive criteria. The present legal regulation is based on technological neutrality and covers audiovisual media services regardless of the technology used for transmission which includes the Internet.

According to the amended Act, the Council for Broadcasting and Retransmission (hereinafter referred to as “the Council”) regulates television broadcasting (including broadcasting exclusively through the internet) and on-demand audiovisual media services independently from the technology used. Since the Directive does not concern radio broadcasting this area has remained unchanged. This means that a radio service transmitted wholly through the internet is not “broadcasting” according to the Act and therefore not covered.

The amendment has introduced the definition of new terms, especially the on-demand audiovisual media service (hereinafter referred to as “on-demand service”). An on-demand service is defined in section 3(b) as a “service of primarily economic character for viewing of programmes at the moment chosen by the user and at his individual request provided through electronic communications on the basis of a catalogue of programmes selected by the service provider the principal purpose of which is the provision of programmes in order to inform, entertain or educate the general public; the provision of audio recordings is not an on-demand audiovisual media service”.

In line with the Directive, providers of television broadcasting exclusively through the internet and providers of on-demand services do not need a license. For the purposes of an effective monitoring of these services a mere notification is required. The mentioned providers have to communicate to the Council the obligatory information not later than on the day of the commencement of broadcasting. The information serves not only for the purposes of regulation but

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also for determining whether the provider is subject to the jurisdiction of the Slovak Republic. The Council informs the provider in case his services are not governed by the Act.

The duties of broadcasters have been extended to on-demand service providers. The former obligation to enter a contract with an organization for collective rights management has been deleted since it concerns a relation governed exclusively by private law and thus does not need to be regulated. The period of time for which the broadcaster has to archive the recordings has been extended to 45 days.

The general ban on pornography does not apply to on-demand services. Therefore, a new specific prohibition against showing child pornography and pornography containing pathological sexual practices has been adopted. Moreover, with respect to the absence of a general ban on pornography a new requirement has been introduced according to which the on-demand service which might seriously impair the physical, mental or moral development of minors is only made available in such a way that ensures that minors will not normally hear or see such on-demand service.

In compliance with the Directive the term “media commercial communication” is established which includes advertising, teleshopping, sponsorship, product placement, television channels exclusively devoted to advertising and teleshopping as well as television channels exclusively devoted to self-promotion. Every duty regarding the media commercial communication applies to its every component. Some of the restrictions which were applicable to only one part of it (e.g. surreptitious advertising) are now extended to the entire media commercial communication.

With respect to the Directive some rules regarding television advertising of specific content have been altered. A significant change involves the advertising of alcoholic beverages. The new provision (section 33 of the Act) allows advertising of beer throughout the day, wine only between 8 p.m. and 6 a.m. and other alcoholic beverages between 10 p.m. and 6 a.m. This provision together with the regulation of political and religious advertising is not applicable to broadcasters of television services exclusively through the Internet. A novelty is also that advertising may be separated from other types of broadcast also through a split-screen technique (in addition to the audiovisual means of separation).

The amendment introduces the concept of product placement defined as “audio, visual or audiovisual information on a product, service or trademark that is featured within a programme, in return for payment or for similar consideration“. Product placement is only allowed under the conditions defined in the Act. There is an explicit prohibition of product placement in programmes intended for minors

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under 12 years of age. However, these restrictions only apply to programmes created after 19 December 2009.

According to the amended Act the providers of retransmission do not have to notify the Council of the changes in the composition of television programmes and radio services in 15 days but only once a year until January 31 with respect to the previous year. However, the provider of retransmission has to report the actual status on request of the Council.

Zákon č. 498/2009 Z. z., ktorým sa mení a dopĺňa zákon č. 308/2000 Z. z. o vysielaní a retransmisii a o zmene zákona č. 195/2000 Z. z. o telekomunikáciách v znení neskorších predpisov a o zmene a doplnení niektorých zákonov

http://www.zbierka.sk/Default.aspx?sid=15&Predp

Amendment No. 498/2009 Coll. of the Act No. 308/2000 Coll. on Broadcasting and Retransmission of 15 December 2009

Zákon č. 308 zo 14. septembra 2000 o vysielaní a retransmisii a o zmene zákona č. 195/2000 Z. z. o telekomunikáciách

http://www.radia.sk/zakony

Consolidated version of the Act No. 308/2000 Coll. on Broadcasting and Retransmission

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