[LU] Law on Electronic Media Updated

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With the Loi du 17 décembre 2010 portant modification de la loi modifiée du 27 juillet 1991 sur les médias électroniques (the Law of 17 December 2010 Amending the Modified Law of 27 July 1991 on the Electronic Media, Electronic Media Law 2010) and eight accompanying Regulations of the same day, Luxembourg has finalised the transposition of the EU Audiovisual Media Services Directive and updated one of its main media-related acts.

After a first step amending the advertising rules in a Regulation of 2008, the new law and regulations align the Luxembourgish rules for audiovisual media services with the requirements of the EU Directive. After fulfilling this obligation, there is an ongoing debate about a further reform of the Electronic Media Law 2010 concerning its institutional provisions.

The Luxembourgish law covers all forms of electronic media and therefore goes beyond television and on-demand audiovisual media services by also encompassing radio. Consequently, Chapter V with the content-related rules distinguishes between norms applicable to all forms of audiovisual and radio media services and specific ones for only certain types of services. The provision against content inciting racial hatred is an example of a horizontal norm. Also, concerning radio, some earlier planned amendments facilitating frequency allocation for programmes with low coverage have now been enforced. Upholding the earlier differentiation between programmes directed at a national audience or with an international reach, the law now creates corresponding categories of services. Together with the new definitions foreseen by the Directive, this amounts to 28 terms being defined in the key provision of Art. 2 of the Electronic Media Law 2010.

Both as concerns the definitions and the newly created substantive provisions that result from the Directive, the Luxembourgish law is almost completely a literal transposition of the Audiovisual Media Services Directive. This is for example the case with the inserted provision on the conditions under which the State can temporarily block the retransmission of foreign on-demand services. An important addition are the notification rules (Art. 23bis to 23quater) that require providers of IPTV or on-demand services, as well as services not under the jurisdiction of an EU Member State but addressed to such States and using Luxembourgish satellite capacities, to notify in advance the authorities of their intended service. The latter reflects the significance of the Luxembourg-based

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SES Astra satellite system for dissemination in Europe and has already been an established procedure. Based on the Electronic Media Law 2010, a number of Regulations give more details, e.g. concerning product placement.

Loi du 17 décembre 2010 portant modification de la loi modifiée du 27 juillet 1991 sur les médias électroniques, Mémorial A, n°241 du 24.12.2010, p. 4024

http://www.legilux.public.lu/leg/a/archives/2010/0241/a241.pdf

Law of 17 December 2010 amending the Law of 27 July 1991 on the Electronic Media, Electronic Media Law 2010, Mémorial A, n°241 of 24 December 2010, p. 4024

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