[HU] Co-regulatory Agreements between the Hungarian Media Self-regulatory Bodies and the Media Authority

IRIS 2011-9:1/23

Gabriella Raskó
Media Law Expert

In July 2011, the Media Council of the Nemzeti Média és Hírközlési Hatóság (National Media and Infocommunications Authority - NMHH) concluded public administration agreements on media co-regulation with the four Hungarian media self-regulatory bodies: the Association of Hungarian Content Providers (MTE), the Advertising Self-regulatory Body (ÖRT), the Association of Hungarian Publishers (MLE) and the Association of Hungarian Electronic Broadcasters (MEME).

According to Art. 190 of Act CLXXXV of 2010 on Media Services and Mass Media (Media Act; see IRIS 2011-2/30) “the Media Council shall have the right to conclude a public administration agreement with the self-regulatory body of good standing on cooperation for the administration of cases specified in the Act falling within the administrative competence of the Council”. The agreements set up a co-regulation model in which complaints regarding the alleged breach of certain provisions of (i) Act CIV of 2010 on the freedom of the press and the fundamental rules on media content (Media Constitution), (ii) the Media Act and (iii) the Co-regulatory Code of Conduct of the self-regulatory body will be handled primarily by the committee of experts of the concerned body. The Codes of Conduct specify in detail — within the context of the authorisations granted in the Media Act — the provisions on proceedings to be performed by the bodies.

The self-regulatory bodies shall perform their tasks in relation to a) their registered members, except those that expressly objected to being bound by the co-regulation, and b) media content providers (in case of ORT advertising organisations) that agreed to be bound by the Code of Conduct. The self-regulatory bodies shall act as entities performing the tasks within their own scope of competence and not as tasks under the powers of authorities. In so doing, their involvement shall have priority to and supplement the activities of the Media Council.

The procedures shall be pursued a) upon request or b) ex officio (in cases defined in the applicable Code of Conduct). Before requesting the procedure of the self-regulatory body the petitioner (the person whose rights or lawful interests are directly affected by the media content) is obliged to inform the concerned content service provider of the complaint (this obligation is not included in ORT’s co-regulation agreement). In case of failure to solve the problem this way, the

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petitioner shall have the right to initiate the co-regulation procedure.

The self-regulatory body has 30 days to end the procedure, which may be extended by 15 days with due heed to the complexity of the case and the difficulties that may arise in revealing the facts of the case. The committee shall have the right to hold a hearing if it is necessary or if there is an attempt to reach consent. The competent committee has - in particular - the following options to decide:

a) to declare the occurrence of the infringement,

b) to oblige the perpetrator to stop its unlawful behaviour (and - if applicable - to restore it to the original state),

c) to oblige the perpetrator to make restitution (e.g., in a statement) either publicly disclosed or otherwise,

d) to oblige the perpetrator to make a non-pecuniary restitution by other suitable means and to reimburse the procedural fees and costs paid by the petitioner,

e) to suspend the perpetrator's right to participate in the co-regulation procedure (in this case the perpetrator shall be subject to the procedure of the authority during the suspension),

f) to disclose to the public its decision containing the perpetrator's name and the committed infringement.

It shall be noted that no penalty may be imposed by the self-regulatory bodies during the co-regulation procedure. Parties may appeal the committee's resolution on the grounds of a breach of the Media Act or the Code of Conduct. The appeal shall be adjudged by the self-regulatory body's appeal committee of experts. Parties may request the review of the final resolution from the Media Council, but only on the grounds of unlawful proceedings (the procedure of MEME does not contain such an "in-house" appeal system).

The Media Council shall exercise supervision over the activities of the self-regulatory bodies under the public administration agreements. In so doing, the Media Council shall have the right to check the fulfilment of the provisions of the agreements on a continuous basis and their delivery in accordance with the agreement.

Magyarországi Tartalomszolgáltatók Egyesülete - MTE

http://mediajogfigyelo.hu/uploads/files/0_MTE_Tarsszabalyozasi_Magatartasi_Kodex.pdf

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Co-regulation Code of Conduct of Association of Hungarian Content Providers

Önszabályozó Reklámtestület - ÖRT

http://mediajogfigyelo.hu/uploads/files/0_Magatartasi_kodex_Reklam_ORT_110704.pdf

Co-regulation Code of Conduct of the Advertising Self-regulatory Body

Magyar Lapkiadók Egyesülete - MLE

http://mediajogfigyelo.hu/uploads/files/0_Magatartasi_Kodex_MLE_110705.pdf

Co-regulation Code of Conduct of the Association of Hungarian Publishers

Magyar Elektronikus Műsorszolgáltatók Egyesülete - MEME

http://mediajogfigyelo.hu/uploads/files/0_Magatartasi_kodex_MEME.pdf

Co-regulation Code of Conduct of the Association of Hungarian Electronic Broadcasters

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