[IT] AGCOM Adopts a New Regulation on Digital Terrestrial Television

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On 23 June 2011 by Deliberation no. 353/11/CONS the Autorità per le garanzie nelle comunicazioni (Italian Communications Authority - AGCOM) adopted a new Regulation concerning the licensing of digital terrestrial television pursuant to Directive 2010/13/UE and Legislative Decree no. n. 177 of 2005, as amended by Decree no. 44/2010 implementing the Audiovisual Media Services Directive into Italian legislation. The new Regulation replaces Deliberation no. 435/01/CONS (see IRIS 2002-1/18 and IRIS 2003-4/20) and was adopted after a public consultation (launched by Deliberation no. 212/11/CONS), to which many stakeholders have contributed by submitting their comments and proposals for amendments.

This Regulation governs the provision of linear audiovisual media services, including content distribution of digital radio, interactive or conditional access services and the activity of network operators on digital terrestrial television frequencies, which are defined as follows:

- a media service provider is defined as any person or entity responsible for the choice and the organisation of the audiovisual content provided by an audiovisual media service; natural persons or legal entities that deal solely with the transmission of programmes for which the editorial responsibility lies with third parties are excluded from the definition of "media service provider";

- a provider of interactive or conditional access services is defined as any entity that provides, for the public or third party operators, conditional access services, including pay-per-view, by distributing numeric keys for direct access to programmes, billing services and possibly the supply of equipment, or providing information society services in accordance with the E-Commerce Directive, or providing electronic programme guides;

- a network operator is defined as the person with the right of installation, operation and delivery of a television network on digital terrestrial TV frequencies and of broadcasting equipment allowing multiplexing, distribution and dissemination of frequency resources to end-users.

The authorisation system differs according to the kind of services offered (see IRIS 2011-8/31): for linear audiovisual media services it is necessary to wait for the lapse of a thirty day period to get a general authorisation from the Ministero per

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lo sviluppo economico (Italian Ministry for Economic Development), whereas for interactive or conditional access services and for network operators it is sufficient to notify AGCOM by a declaration on the same day that the activity starts.

In particular the authorisation for national linear audiovisual media services is issued solely for capital companies and cooperatives with share capital, fully paid up (net loss deducted) of no less than EUR 6,200,000 and at least twenty employees. The authorisation for local providers is issued solely for capital companies and cooperatives with share capital, fully paid up, with net losses no less than EUR 155,000 and at least four employees.

The authorisation for linear audiovisual media services lasts for 12 years and is renewable. The authorisation for television broadcasting networks at national or local level lasts for 20 years and is also renewable.

In addition, the Regulation contains provisions for the protection of pluralism, transparency, competition and the principle of non-discrimination. In particular, one-third of available television multiplexes are reserved for local television broadcasters, while the same entity may not broadcast more than 20% of digital television programmes in the same local area. A limit of 20% concentration of national frequencies that are available according to the national frequency plan applies also at national level (see IRIS 2008-10/22). The provider of linear audiovisual media services nationally, which is also a service provider, must adopt separate accounts for each activity subject to authorisation.

Delibera n. 353/11/CONS del 23 giugno 2011, Nuovo regolamento relativo alla radiodiffusione televisiva terrestre in tecnica digitale, Gazzetta Ufficiale della Repubblica italiana del 6 luglio 2011 Serie Generale n. 155

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AGCOM Regulation no. 353/11/CONS concerning the licensing of digital terrestrial television broadcasting

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