

[PL] New Regime of Must-carry / Must-offer

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On 30 June 2011 the Polish Parliament enacted the Act on the introduction of terrestrial digital television. Most of its provisions entered into force on 10 August 2011, the remainder of the provisions on 26 August 2011.

The Act establishes the mode of the introduction of DTT, the obligations of the operators of DTT multiplexes I and II (MUX 1 and 2) as well as the obligations of the broadcasters of programme services set on MUX 1 and 2 with regard to the public information campaign about DTT.

The Act also contains significant changes to the Broadcasting Act and Telecommunications Law. One of these changes is the introduction of a new legal must-carry regime within the Broadcasting Act.

Each operator retransmitting programme services (in the following referred to as "operator"), with the exception of an entity that retransmits programme services on the DTT platform ("DTT platform operator"), is obliged to retransmit the public service channels (Telewizja Polska I, Telewizja Polska II) and one regional television channel broadcast by the public service broadcaster - Telewizja Polska S.A.

Moreover, such an operator is obliged to retransmit those programme services that were broadcast on the basis of a broadcasting licence in analogue form terrestrially on the day of the entering into force of the Act on the introduction of terrestrial digital television, by the four commercial broadcasters: Telewizja Polsat S.A., TVN S.A., Polskie Media S.A., Telewizja Puls S.A. (namely the channels: Polsat, TVN, TV4 and TV Puls). These rules apply to all operators regardless of the technical mode of distribution, so they are basically technologically neutral (with the sole exception of retransmission by DTT platform operators, since these channels are broadcast on DTT platforms anyway).

These broadcasters cannot refuse to give their consent to the retransmission of the above-mentioned channels nor demand financial consideration for granting such consent. They are obliged to make these channels available free of charge on the motion of the operator within 14 days of receiving such a motion. The operator is obliged to retransmit these channels and to inform viewers that these channels are also available free-to-air and free of charge in digital form via terrestrial diffusion.

The Chairman of the Polish National Broadcasting Council ("NBC") conducts an analysis of the realisation of these requirements at least once every two years, in guidance with the public interests goals in respect to the provision of information, the making available of culture and arts to the general public, the facilitation of access to education, sports and science, as well as the popularisation of civic education. The Chairman of the NBC presents the results of the analysis to the Minister of Culture and National Heritage, who may take appropriate steps to propose amendments to the above-mentioned must-carry / must-offer regime, taking into account the need to keep these rules transparent, proportionate and objectively necessary.

Ustawa z dnia 30 czerwca 2011 r. o wdrożeniu naziemnej telewizji cyfrowej

<http://dokumenty.rcl.gov.pl/D2011153090301.pdf>

