[IT] AGCOM’s Rules on Short News Reports Annulled

IRIS 2012-1:1/31

Amedeo Arena
Università degli Studi di Napoli "Federico II"

On 13 July 2011 the Second Chamber of the Latium Regional Administrative Tribunal handed down its judgment on the complaint filed by the broadcaster Sky Italia seeking the annulment of AGCOM Decision 667/10/CONS. That judgment provides valuable insights as to the consistency between the Audiovisual Media Services Directive and the Italian regulatory framework on short news reports.

The Italian Communications Authority adopted Decision 667/10/CONS laying down a regulation on short news reports on 17 December 2010 (see IRIS 2011-8/32). The legal basis for that regulation is Article 32-quater of the Consolidated Law on Radio and Audiovisual Media Services (Legislative Decree no. 177/2005, as amended in 2010; see IRIS 2010-2/25 and IRIS 2010-4/31). That provision, in turn, was designed to implement the rules on short news reports set forth in Article 15 of the Audiovisual Media Services Directive.

The complaint brought by the Italian broadcaster Sky Italia on 8 March 2011 was based on three pleas in law, which will be examined seriatim.

First, the broadcaster argued that, as the AVMSD rules on short news reports only concern cross-border situations, it was unwarranted for the impugned decision to grant access to high interest events transmitted on an exclusive basis to broadcasters established both in Italy and in other member states. The Regional Administrative Court dismissed this plea, holding that it was apparent from the wording and the spirit of Article 15 AVMSD that the rules on short news reports applied both to internal and to cross-border situations, as otherwise the fundamental freedom to receive information would have been undermined.

Second, the broadcaster claimed that Decision 667/10/CONS was at odds with the AVMSD insofar as the Decision provided that short extracts could not be used in “information programmes having an entertainment purpose”, whilst the AVMSD allowed their use in all “general news programmes” without distinction. The Regional Administrative Court rejected this contention and found that Italian Communications Authority acted within its implementation powers in specifying that entertainment programmes that included information content or information windows were not akin to the “general news programmes” referred to in Article 15 AVMSD.

© European Audiovisual Observatory (Council of Europe) 2026

Third, Sky Italia submitted that Decision 667/10/CONS was at variance with the AVMSD because the Decision provided that short news reports could not exceed three minutes for each event, whereas Recital no. 55 of the Directive set the maximum duration of those reports to 90 seconds.

The Italian Communications Authority countered that it had acted under Article 15, paragraph 6 of the Directive, which enables member states to derogate from the rules set out in the Directive. The Authority also averred that the provision of a longer maximum duration for short news report was designed to ensure consistency with the rules governing reports of sport events set out in Legislative Decree no. 9 of 2008.

The Latium Administrative Court acknowledged that Article 15, paragraph 6 of the Directive can be relied upon by member states to lay down more detailed or stricter provisions, but added that doing so alters the balance struck at the EU level between the concerns of the holders of exclusive broadcasting rights and the other interests at stake. The Court thus ruled that, absent a clear indication by the Italian legislature, the Italian Communications Authority had no authority autonomously to set the maximum duration of short news reports. That determination, moreover, could not be justified by reference to the sector-specific rules on sport events.

The Latium Regional Administrative Court, therefore, resolved to annul the provision of Decision 667/10/CONS setting the maximum duration of short news reports at three minutes. The Court, instead, dismissed all other pleas, thus finding that the Italian rules on short news reports can apply both to internal and cross-border situations and can exclude information programmes with an entertainment purpose from the category of programmes in which short excerpts can be used.

Tribunale Amministrativo Regionale per il Lazio (Seconda Sezione), sentenza n. 7844 del 13 Luglio 2011, depositata il 10 Ottobre 2011

http://www.giustizia-amministrativa.it/DocumentiGA/Roma/Sezione%202/2011/201102401/Provvedimenti/201107844_01.XML

Latium Regional Administrative Court (Second Chamber), Judgment no. 7844 of 13 July 2011, published on 10 October 2011

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026