[ES] Cable Regulation

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IRIS 1996-2: 10 reported on the regulatory developments in the Spanish telecommunications and cable TV sectors in the last quarter of 1995. Since then, after the approval of Act No 42/1995 of 22 December 1995 relating to Telecommunications by Cable, two new legislative instruments have been adopted to implement and complete the provisions of the Act that relate to cable: Decree No 2066/1996 of 13 of September 1996 (the Cable Regulation), implementing the provisions relating to the technical aspects and clarifying the conditions on which basis telecommunications services may be offered via cable networks (in the U.S. referred to as 'cable systems'), and the Royal Legislative Decree (Real Decreto-Ley, i.e. a Statute adopted by the Government which directly has force of law but needs to be approved by the Parliament within a certain period of time) No 6/1996 of 7 June 1996, on the liberalization of the telecommunications sector.

The most important provisions of the Cable Regulation concern: Geographical limitation.

Licences for telecommunication services by cable will be limited geographically. Depending on the envisaged scope of the service, the competence to set geographical limits rests with the municipality, the relevant Autonomous Community, or the Ministry of Development (the Ministerio de Fomento) .

Call for bids.

The Ministerio de Fomento is the competent organ to approve the licensing conditions after having received a positive advice to this extent from the Autonomous Communities. Their advice will be binding in matters that belong to their exclusive competence. The Ministerio de Fomento will call for the corresponding bids in each geographically limited area.

Outcome of the tender.

The Ministerio de Fomento decides on the outcome of the tender but in doing so, must follow the proposal of a contracting committee composed of a chairman, a member appointed by the Ministerio de Fomento , and another two persons appointed upon the proposal by the autonomous and local administrations respectively. The casting vote of the chairman will decide in case of tie.

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Licences.

The title that enables to render telecommunication services by cable takes the form of an administrative licence. A maximum of two licences will be granted in each geographically limited area: one for Telefónica de España SA , if it requests so, and another to a company that fulfils the legal requirements as set out in the Cable Regulation and in the licensing conditions.

Telefonica will have to wait twenty-four months after the outcome of the tender before it can start to render cable services. The licence will be granted for a period that can last up to twenty-five years. The licence can be renewed for consecutive periods of five years.

The Cable Regulation contains restrictions on natural or legal persons engaged in the distribution of television broadcast services by cable: no such legal or natural person will be allowed to participate, either direct or indirectly, in companies which have been awarded a licence to render telecommunication services by cable, if they jointly reach more than 1,500,000 suscribers on Spanish territory.

Cable operators must reserve for independent broadcasters, 40 per cent of their capacity to distribute audio-visual services, except when it turns out to be impossible for independent broadcasters to fill the distribution capacity reserved for them. The cable operators must also distribute the public and local TV channels. Although the Royal Legislative Decree on the liberalization of the telecommunications sector has a much wider scope, it also affects the audio-visual sector. It creates a Telecommunications Market Commission that will decide if the prices of cable services are correctly fixed according to competition law, and it will also control concentration in this field. Furthermore, this Legislative Decree contains some articles that amend Law No 42/1995 on Telecommunications by Cable and that directly relate to television broadcasting services.

Ley 42/1995 de 22 de diciembre, de las telecommunicaciones por cable, Boletín Oficial del Estado(BOE), 23 de diciembre de 1995: 36790-36796

Act No 42/1995 of 22 December 1995 relating to Telecommunications by Cable, Official Journal, 23 December 1995: 36790-36796.

Real Decreto-Ley 6/1996, de 7 de junio, de liberalización de las telecomunicaciones, Boletín Oficial del Estado (BOE), 8 de junio de 1996: 18973-18977.

Statutory Instrument No 6/1996 of 7 June 1995 on the liberalization of the telecommunications sector, Official Journal, 8 June 1996: 18973-18977.

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Corrección de errores del Real Decreto-Ley 6/1996, de 7 de junio, de liberalización de la telecomunicaciones, Boletín Oficial del Estado (BOE), 20 de junio de 1996: 20203.

Rectification of Statutory Instrument No 6/1996 of 7 June 1995 on the liberalization of the telecommunications sector, Official Journal, 20 June 1996: 20203.

Acuerdo de Convalidación del Real Decreto-Ley 6/1996, de 7 de junio, de liberalización de las telecomunicaciones.

Parliamentary Approval of Statutory Instrument No 6/1996 of 7 June 1995 on the liberalization of the telecommunications sector.

Real Decreto 2066/1996, de 13 septiembre, por el que se aprueba el Reglamento Técnico y de Prestación del Servicio de Telecomunicaciones por Cable, Boletín Oficial del Estado (BOE), 26 de septiembre de 1996: 28738-28757.

Decree 2066/1996 of 13 September 1996 implementing the provisions relating to the technical aspects and clarifing the conditions on which telecommunications services must be offered), Official Journal, 26 September 1996: 28738-28757;

Real Decreto 1994/1996, de 6 de septiembre, por el que se aprueba el Reglamento de la Comisión del Mercado de las Telecomunicaciones, Boletín Oficial del Estado (BOE), 25 de junio de 1996: 28605-28612.

Statutory Instrument 1994/1996 of 6 September 1996 implementing the Regulation on the Telecommunications Market Commission, Official Journal, 25 June 1996: 28605-28612.

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