[IT] Italian AVMS Code Amended

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On 28th June 2012 the Italian Government adopted Legislative Decree no. 120/2012 amending the Italian AVMS Code (Legislative Decree no. 177/2005, already amended in 2010, when the AVMS Directive was implemented into Italian legislation: see IRIS 2010-2/25 and IRIS 2010-4/31).

This Decree has been adopted with the aim of amending some provisions on the protection of minors and trailers of cinematographic works adopted in 2010 at the time of the implementation of the AVMS Directive and which led to some remarks by the European Commission (see IRIS 2011-5/5). With regard to trailers of cinematographic works of European nationality, the challenged provision did not calculate their duration within the total time allocated to advertising. Concerning the protection of minors, the Italian transposition did not properly take into account the different provisions regarding minors between linear and non-linear media services.

Following the observations received from the Commission, the Italian Government took steps to amend the concerned articles, while taking also the chance to regulate some issues not specifically falling under the scope of the AVMS Directive, but still coherent with its underlying purpose, introducing some new provisions with regard to European works and sanctions against local AVMS providers.

Article no. 1 introduces major changes to Article no. 34 of the AVMS Code, regarding the protection of minors, to ensure a more consistent implementation of the provisions of the Directive so as to take ensure more restrictive rules for linear services and less severe rules for non-linear ones. It is now clearly stated that audiovisual content that seriously impairs the physical, mental or moral development of minors, in particular programmes that involve pornography or gratuitous violence, including cinematographic works classified as unsuitable for minors under 18 years, may never be broadcast on linear services, but can be made available in on demand catalogues in such a way that minors will not normally hear or see such services and in any case provided that a parental control system is activated. AGCOM (the Italian Communications authority) is charged to adopt the implementing measures. As to programmes which are likely to impair the physical, mental or moral development of minors, they may be broadcast when it is ensured that minors in the area of transmission will not see

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or hear them and in any case together with an informative symbol during the whole transmission time. Cinematographic works classified as not suitable for minors under 14 years or films showing sex or violence may be broadcast only during the night, between 23 and 7, unless appropriate technical measures are available.

Article no. 2 amends Article 38, paragraph 12 of the AVMS Code excluding trailers of cinematographic works of European nationality from the limits on the amount of advertising when they qualify as “promotional messages” instead of “advertising”.

Article 3 amends Article 44, paragraphs 3 and 8 of the AVMS Code and charges the Ministries of Cultural affairs and Economic development to define specific investment sub-quotas, within the general investment quota of 10% of yearly revenues to be destined to independent European works, in relation to the production, financing, pre-purchase or purchase of cinematographic works of Italian expression, independently of the country of production. This Article also charges AGCOM to adopt a regulation, with the opinion of the mentioned Ministries, in order to define the roll-out of the monitoring activity on the provisions related with European productions and programming and the criteria for the concession of exemptions to AVMS providers fulfilling on of the conditions set by the Decree (no revenues in the past two years, less than 1% market share or thematic channels).

Article no. 4 reduces to one tenth the amount of the penalties for violations committed by local broadcasters in the field of audiovisual sports rights, in uniformity with other reductions for other kinds of violations covered by the Code.

Decreto legislativo 28 giugno 2012, n. 120 - “Modifiche ed integrazioni al decreto legislativo 15 marzo 2010, n. 44, recante attuazione della direttiva 2007/65/CE relativa al coordinamento di determinate disposizioni legislative, regolamentari e amministrative degli Stati membri concernenti l'esercizio delle attività televisive. (GU n. 176 del 30-7-2012)”

http://www.gazzettaufficiale.it/guridb/dispatcher?service=1&datagu=2012-07-30&task=dettaglio&numgu=176&redaz=012G0137&tmstp=1343720489757

Legislative Decree 28 June 2012, no. 120 - Amendments to legislative decree 15th march 2010, no. 44, implementing directive 2007/65/CE on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities

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