[RO] Approval of Emergency Ordinance for the Modification of Audiovisual Law

IRIS 2013-6:1/27

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The Camera Deputaţilor (Chamber of Deputies, Lower Chamber of the Romanian Parliament) approved on 23 April 2013 the Government's Emergency Ordinance no. 25 of 10 April 2013 for the modification and completion of the Audiovisual Law no. 504/2002. The Romanian Senate (Upper Chamber) will have the final decision (see inter alia IRIS 2010-1/36, IRIS 2011-4/31, IRIS 2011-7/37, and IRIS 2013-3/26).

The Emergency Ordinance intends to boost the development of the Romanian audiovisual market by fostering and encouraging local TV production, investments in local programmes and other developments and economic activities for the benefit of the market. The Act is intended, at the same time, to fight against corruption in the field of purchasing mass-media advertising airtime and against the non-transparent and anticompetitive system in the advertising sector, which affects the activity of TV stations and the right of the public to receive correct and good quality information.

According to the Emergency Ordinance's new Article 29.1, which is intended to eliminate the intermediaries from TV advertisement sales, any price offers for TV advertising will have to be previously confirmed in writing by the broadcaster. Any discount, irrespective of its nature, has to be clearly marked on the bill. The Emergency Ordinance envisages strict rules for the purchase of TV advertising airtime, which can be made by an intermediary only in the name and on behalf of the final beneficiary. The payment of the advertisement's broadcasting will have to be made directly to the broadcaster by the final beneficiary of the ads. The intermediaries cannot receive any other payment or service other than those paid by the final advertisement's beneficiary of the services provided, nor any material advantage from the broadcaster.

Furthermore, the Emergency Ordinance stipulates in the modified Article 56 that the audiovisual licences can be awarded only to applicants who do not have debts to the State budget. The sole exception is applicants who have been granted facilitation or a rescheduling for the payment of the debts.

Another restriction introduced into Article 56 (1) regards the transfer of audiovisual licences. They can be transferred to third parties only

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- with the approval of the National Audiovisual Council,

- not before at least one year after the broadcasting commencement, and

- the new holder has to accept all the obligations incurred under the licence.

At the same time, the previous and the new licence holder have to prove they do not have debts incurring to the State budget. The Emergency Ordinance is in line with a Decision adopted on 28 March 2013 by the National Audiovisual Council, for the modification of the Audiovisual Code, which obliges the broadcasters to inform the Council about any changes in licence-relevant information and that any modification of the licence cannot be made during the period of one year after the start of the audiovisual services.

The Emergency Ordinance was harshly criticised by the International Advertising Association România (IAA România), the Union of Advertisement Agencies of Romania (UAPR) and by the American Trade Chamber in Romania (AmCham România). They considered the Emergency Ordinance has a negative impact on the competitive media advertisement field. The organisations accused the State of undue interference with private commercial relations. The attempt to eliminate the intermediaries from the advertisement market would have negative impacts on the business and on the investment climate in Romania.

Ordonanţă de Urgenţă nr. 25 din 10 aprilie 2013 pentru modificarea şi completarea Legii audiovizualului nr. 504/2002

http://www.cdep.ro/proiecte/2013/100/10/4/oug114.pdf

Emergency Ordinance no. 25 of 10 April 2013 for the modification and completion of the Audiovisual Law no. 504/2002

Form adopted by the Chamber of Deputies of the Draft Law on the approval of the Emergency Ordinance no. 25 of 10 April 2013 for the modification and completion of the Audiovisual Law no. 504/2002

http://www.cdep.ro/pls/proiecte/docs/2013/cd114_13.pdf

Form adopted by the Chamber of Deputies of the Draft Law on the approval of the Emergency Ordinance no. 25 of 10 April 2013 for the modification and completion of the Audiovisual Law no. 504/2002

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