[IT] New statute on broadcasting activities and telecom services

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A law passed on 23 December 1996 (No 650), enacted to convert into law some government decrees issued during the course of the year, includes several provisions concerning the activities of broadcasters in Italy. The most relevant provisions are the following: Corte

(i) Art. 1 of Law No 650 postpones once more the deadline for the application of the ruling of the Costituzionale which declared the position of the Berlusconi Group (Mediaset) incompatible with the principle of pluralism enshrined in Art. 21 of the Constitution. According to the Court, the Mediaset (formerly Fininvest) Group should have abolished its control over one of its three commercial channels by August 1996(see IRIS 1995-1:10; IRIS 1996-10:16). The reasoning given to motivate the delay is still related to the time necessary for the enactment of a general reform of the whole system of broadcasting and telecommunications (see IRIS 1996-10:16).

The new deadline is thus 31 may 1997, or the end of July in the case where the new Statute is approved by at least one of the chambers of the Parliament. It can be envisaged that this new deadline will also not be met, not only because of the political implications, but also because Law No 650 requires for the new rules on ownership to be adopted, the realisation of a plan for the assignment of frequencies. It is clear from previous experiences that a similar plan requires far more than a few months to be adopted.

(ii) The same Article of law No 650 gives the Government delegated powers to implement Commission Directive 95/51 of 18 October 1995 amending Directive 90/388/EEC with regard to the abolition of the restrictions on the use of cable television networks for the provision of already liberalised telecommunications services, Directive 95/62 of the European Parliament and of the Council of 13 December 1995 on the application of open network provision (ONP) to voice telephony and Commission Directive 96/19 of 13 March 1996 amending Directive 90/388/EEC with regard to the implementation of full competition in telecommunications markets. None of these decrees have so far been adopted, whereas a recent Decree No 55 of 11 February, published in Gazzetta Ufficiale No 60 of 13 March 1997 transposed Commission Directive 94/46 of 13 October 1994 amending Directive 88/301/EEC in particular with regard to satellite communications into Italian law. This Decree abolishes special and exclusive

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rights in respect to services distributed via satellite. (iii) Finally, Law No 650 includes some provisions aimed at modifying the general Copyright Act on the basis of Council Directive 93/98/EEC of 29 October 1993 harmonising the term of protection of copyright and certain related rights with respect to the rights of producers of cinematographic works and audio-visual works.

Law of 23 December 1996, No 650.

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