[IT] AGCOM publishes the results of the inquiry on the audiovisual production sector

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Ernesto Apa, Fabiana Bisceglia
Portolano Cavallo Studio Legale

On 25 February 2016, by Resolution no. 582/15/CONS, the Italian Communications Authority - (Autorità per le garanzie nelle comunicazioni - AGCOM) published the results of the inquiry relating to audiovisual production sector.

The inquiry started on 13 January 2015 (Resolution no. 20/15/CONS) in order to carry out a review of the audiovisual production sector, as well as to make an in-depth analysis on the production process of audiovisual works and on the mechanisms of market functioning. The inquiry ended on 16 October 2015. The AGCOM report, running to more than 170 pages, provides a comprehensive analysis of legal and economic aspects of the sector.

According to AGCOM, producers and audiovisual media services providers operate in a market made uneven due to the peculiar structure of the national market, the technology changes (in particular, convergence), the differences of the value chain depending on nature, duration and genre of the audiovisual work, and the complexity of the legal and regulatory framework. These elements lead to the inadequacy, undercapitalisation and risk-averse nature of several companies operating in the sector at hand.

Audiovisual media services providers believe that these characteristics are due essentially to the legal framework, in particular regarding the investment obligations, which are capable of altering the competitive ability of the market players. Moreover, under Italian law the investments obligations are calculated on the revenues of the broadcasters, while the EU legal framework refers to the programming budget (see IRIS 2008-9/2). In addition they believe that the sub-quotas devoted to certain specific genres (like programmes aimed at children) are a legacy of the analogue age, no longer necessary and adequate in the digital environment, where there are many thematic channels (e.g. children’s channels).

The producers instead deem that the complexity and the inadequacy of the market is due to the imbalance in the rights management system of the produced works. They underline the necessity to change the regulation concerning the primary and secondary rights on the audiovisual works.

Both audiovisual media service providers and producers agree on the inadequacy of the legal framework concerning the "over-the-top" operators: they deem that

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OTT operators (excluding those who exercise editorial control over the content and therefore fall within the scope of the Audiovisual Media Service Directive) (i) do not have to comply with the obligations established by the Audiovisual Media Services Directive, including investment and programming quotas to support the production and consumption of European works; and (ii) benefit from the tax system. According to audiovisual media service providers and producers, this unbalanced legal framework leads to an unlevelled playing field, with a consequent alteration in the competitive dynamics and allocation of resources.

Delibera n. 582/15/CONS - Conclusione dell'Indagine conoscitiva avviata con delibera n. 20/15/CONS sul settore della produzione audiovisiva, 16 ottobre 2015

http://www.agcom.it/documentazione/documento?p_p_auth=fLw7zRht&p_p_id=101_INSTANCE_kidx9GUnIodu&p_p_lifecycle=0&p_p_col_id=column-1&p_p_col_count=1&_101_INSTANCE_kidx9GUnIodu_struts_action=%2Fasset_publisher%2Fview_content&_101_INS

Resolution no. 582/15/CONS, Conclusion of the inquiry launched with the Resolution no. 20/15/CONS on the audiovisual production sector, 16 October 2015

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