[IT] New Law on Pluralism in the Broadcasting Sector

IRIS 1997-8:1/14

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The Bill drafted by the Italian Government concerning Istituzione dell'Autorità per le garanzie nelle comunicazioni e norme sul sistema radiotelevisivo (the establishment of the Authority for the safeguarding of the functioning of the communications system and for the surveillance of standards in the radio and television broadcasting system) was adopted on 31 July 1997. The Authority will regulate and co-ordinate the Italian telecommunications and broadcasting sectors and will also implement the rules that apply or will apply to these sectors. The new law does not only include provisions concerning the powers and the functioning of a new Authority, but also rules aimed at introducing more pluralism in the audio-visual sector in Italy. These new rules were drafted in order to implement the December 1994 decision by the Constitutional Court (see IRIS 1995-1: 10 and IRIS 1996-8: 13), which declared the previous regime inconsistent with the obligation to protect pluralism, as laid down in Article 21 of the Italian Constitution.

The new law contains six long articles. Article 1 defines the role and the composition of the new Authority, which will not only function as an administrative body implementing existing rules, but will also be involved in rulemaking itself. It is important to stress that the same body will exercise its powers in both the telecommunications and audio-visual sectors, in accordance with the principles of convergence between the two sectors, as recognised by the new law. As far as broadcasting is concerned, the new Authority will replace the old Garante per l'editoria e la radiodiffusione. The eighth members of the Authority were to be nominated upon proposal by the Parliament, by the Italian President during September 1997. The Chairperson of the Authority, who will also be a member, was to be nominated by the Italian President upon proposal by the Government.

The eighth members will be divided over two separate committees: the Committee for infrastructures and networks and the Committee for services and products. Each committee will be chaired by the Chairperson of the Authority. Article 2 contains rules aiming at avoiding the establishment of dominant positions in the audio-visual sector. The threshold is set at 20% of channels broadcasting over terrestrial frequencies. Another limitation concerns the resources: no entity will be allowed to control more than 30% of the resources available for each form of television broadcasting (terrestrial frequencies; cable;

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satellite). In regard to cross media ownership structures between television and press, the threshold is set at 20% of the resources available.

These limitations will come into effect on 30 April 1998 (Article 3). The Authority has been given the power to decide NOT to apply the rules concerning pluralism, to entities which, at the moment the thresholds enter into force, will be above the set thresholds but have passed these thresholds only because of the `natural growth' of the entity concerned.

Articles 4 and 5 are devoted more specifically to telecommunications activities and concern the establishment and operations of telecommunications networks and the provision of services according to the relevant EC Directives. The Authority will inter alia formulate standards for decoders and develop frequency assignment plans.

A last-minute amendment drastically reduces the VAT rate on digital pay-TV subscriptions, installations and equipment as well as on cable and fibre-optic installations, from 19% to 4% in order to encourage the development of the Italian digital TV industry.

The more general Television and Telecommunications Bill, which was introduced by the Italian Government in parallel to the one which has now been adopted, is still pending (see IRIS 1996-10: 16).

Legge n. 249 del 31 Luglio 1997, Istituzione dell'Autorità per le garanzie nelle comunicazioni e norme sul sistema radiotelevisivo, G.U.n. 177 del 31 Luglio 1997 (Supplemento ordinario)

Act n. 249 of 31 July 1997, on the establishment of the Authority for the safeguarding of the functioning of the communications system and for the surveillance of standards in the radio and television broadcasting system. G.U. n. 177 of 31 July 1997

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