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**BROADCASTING ACT  
of 29 December 1992**

*(Unofficial consolidated text)*

**CHAPTER 1  
General Provisions**

Article 1

1. The tasks of radio and television broadcasting shall be:
  - 1) to provide information,
  - 2) to ensure access to culture and art,
  - 3) to facilitate access to learning, sport and scientific achievements,
  - 3a) to disseminate civil education,
  - 4) to provide entertainment,
  - 5) to promote domestic production of audiovisual works.
- 1.a. The tasks of radio and television broadcasting, referred to in paragraph 1, shall be performed by providing media services.
2. Reception of domestic and foreign programme services and on-demand audiovisual media services, intended by media service providers for reception by the general public, shall be free subject to compliance with the requirements set forth by the applicable law.

Article 1a

1. This Act shall apply to media service providers established in the territory of the Republic of Poland.
2. A media service provider shall be deemed established in the territory of the Republic of Poland if it meets at least one of the following criteria:
  - 1) it has its seat in the territory of the Republic of Poland, and:
    - a) editorial decisions about the media service are made in the Republic of Poland, or
    - b) a major part of workforce engaged in the provision of the media service on the basis of an employment contract or a contract for services operates in the Republic of Poland, and editorial decisions about the media service are made in another Member State of the European Union, or

- c) a major part of workforce engaged in the provision of the media service on the basis of an employment contract or a contract for services operates both in the Republic of Poland and in another Member State of the European Union,
  - 2) editorial decisions about the media service are made in the Republic of Poland and a major part of workforce engaged in the provision of the media service on the basis of an employment contract or a contract for services operates in the Republic of Poland, while the media service provider has its seat in another Member State of the European Union,
  - 3) the media service provider began to provide the media service in the Republic of Poland or pursuant to the law of the Republic of Poland and maintains stable and effective business relations with the Republic of Poland, unless
    - a) the media service provider's seat is located in another Member State of the European Union and editorial decisions about the media service are made in another Member State of the European Union, or
    - b) a major part of workforce engaged in the provision of the media service on the basis of an employment contract or a contract for services operates in another Member State of the European Union in which the media service provider has its seat, or if editorial decisions about the media service are made in another Member State of the European Union.
3. A media service provider shall be deemed established in the territory of the Republic of Poland also if a major part of workforce engaged in the provision of the media service on the basis of an employment contract or a contract for services operates in the Republic of Poland and if the provider:
- 1) has its seat in the territory of the Republic of Poland and editorial decisions about the media service are made in a state which is not a Member State of the European Union, or
  - 2) has its seat in a state which is not a Member State of the European Union and editorial decisions about the media service are made in the Republic of Poland.
4. The Act shall also apply to a media service provider who:
- 1) uses a satellite uplink station situated in the territory of the Republic of Poland, or
  - 2) does not use the station but uses a satellite link that belongs to the Republic of Poland
    - notwithstanding that the provider does not meet the conditions specified in paragraphs 2 and 3 and has not been deemed a media service provider established in a Member State of the European Union under the laws of that State corresponding to regulations set forth in paragraphs 2 and 3.

## Article 2

- 1. The right to transmit radio and television programme services shall be vested with public broadcasting organisations as well as natural persons, legal persons and partnerships that have received a broadcasting licence or, in case of television programme services transmitted exclusively in information and communications technology systems, that have been entered in the register of such programme services.
- 2. The provisions of the Act shall not apply to:

- 1) programme service transmitted or retransmitted solely for reception within a single building,
- 2) programme service transmitted or retransmitted in a system, where transmitting and receiving equipment belongs to the same person engaged in business activity or other registered public activity, and where the content of the programme service is limited to matters relating to that activity and is addressed either to employees or another particular group of people connected to the broadcaster,
- 3) programme service retransmitted in a cable network, where the number of individual receivers does not exceed 250,
- 4) radio programme services transmitted exclusively in information and communications technology systems, and to on-demand audio services,
- 5) correspondence exchanged with the use of means of electronic communications,
- 6) electronic versions of dailies and magazines as well as the press accessible in an information and communications technology system, provided that audiovisual programmes do not constitute a prevailing part thereof,
- 7) games of chance and mutual bets unless they form part of a media service programme.

### Article 3

Unless it is otherwise provided for in the Act, the provisions of the press law shall apply to the transmission of radio and television programme services.

### Article 3a

1. In view of performance of obligations set out in the Act, in particular in Article 14a, Article 16b paragraph 3a, Article 18a, Article 47e and Article 47g, media service providers may create and adhere to codes of good practice as defined in the Act of 23 August 2007 on Combating Unfair Market Practices (official journal "Dz.U." No. 171, item 1206).
2. Acting in favour of on-demand audiovisual media services, the National Broadcasting Council in cooperation with the minister responsible for information technology shall initiate, support and promote the creation of codes of good practice referred to in paragraph 1.

### Article 4

For the purpose of the Act:

- 1) "media service" shall mean a service in the form of a programme service or an on-demand audiovisual media service, which is under the editorial responsibility of its provider and the principal purpose of which is the provision of programmes, in order to inform, entertain or educate, to the general public by telecommunications networks; commercial communication shall also be a form of media service,
- 2) "programme" shall mean a set of moving images with or without sound (audiovisual programme) or a set of sounds (radio programme) constituting, in terms of its content, form, designation or authorship, an individual item within a programme service or a

catalogue of programmes made available to the public by a media service provider as part of the on-demand audiovisual media service, hereinafter the “catalogue”,

- 3) “editorial responsibility” shall mean the exercise of effective control both over the selection of the programmes and over their organisation in a schedule or in a catalogue; it shall not prejudice principles of legal liability for the content of the programme or provision of the service,
- 4) “media service provider” shall mean a natural person, legal person or partnership that has editorial responsibility for the choice of the content of the media service and determines the manner in which it is organised, and is a broadcaster or a provider of on-demand audiovisual media service,
- 5) “broadcaster” shall mean a natural person, legal person or partnership that produces and organises a programme service and transmits it or has it transmitted by other persons,
- 6) “programme service” shall mean a scheduled composition of programmes, commercial communications or other broadcasts, transmitted in its entirety in a manner that allows simultaneous reception by the general public in a sequence determined by the broadcaster,
- 6a) “on-demand audiovisual media service” is a media service provided within the frame of business operations carried out for this purpose, consisting in the provision of audiovisual programmes to the general public in accordance with the catalogue of programmes created by the service provider;
- 7) “transmission” shall mean transmission over the air or by wire of a programme service for reception by the general public,
- 8) “retransmission” shall mean the reception of a transmitted, complete and unchanged programme service and its simultaneous, secondary transmission,
- 8a) “provision of on-demand audiovisual media service to the general public” is the provision of such service in a manner enabling the general users, at a time preferred by them and at their request, to receive a programme of their choice selected from the catalogue of programmes provided as part of such service;
- 9) “provision of a media service” shall mean transmission of a programme service or provision of on-demand audiovisual media service to the general public,
- 10) “social broadcaster” shall mean a broadcaster who:
  - a) propagates learning and educational activities, promotes charitable deeds, respects the Christian system of values, being guided by the universal principles of ethics, and strives to preserve national identity in the programme service,
  - b) does not transmit programmes or other broadcasts referred to in Article 18 paragraph 5 within the programme service,
  - c) does not transmit commercial communications,
  - d) does not charge any fees for transmission, retransmission or reception of the programme service,
- 11) “foreign person” shall mean a foreign person as defined in Article 5 subparagraph 2 of the Freedom of Business Activity Act of 2 July 2004 (official journal “Dz.U.” of 2010, No. 220, item 1447 and No. 239, item 1593),
- 12) “creative team” shall mean a team of persons who create programmes including, in particular: the director, script writer, set designer, operator, performers of lead characters and composer,

- 13) “thematic programme service” shall mean a programme service where at least 70% of the monthly transmission time during hours from 6 a.m. till 11 p.m. is devoted to programmes and other broadcasts in line with the main theme of the said programme service,
- 14) “programme originally produced in the Polish language” shall mean a programme which meets the criteria of “European work” as defined in this Act, which has been produced on the basis of a script written originally in the Polish language and first registered in the Polish language,
- 15) “children’s programme” shall mean a programme which, in view of transmission hours and content, is addressed primarily at children,
- 16) “commercial communication” shall mean any broadcast, including images with or without sound or sounds only, which is designed to promote, directly or indirectly, the goods, services or image of an entity pursuing an economic or professional activity, accompanying or included in a programme in return for payment or for similar consideration or for self-promotional purposes, in particular advertising, sponsorship, teleshopping and product placement,
- 17) “advertising” shall mean a commercial communication, originating from a public or private entity, in connection with its economic or professional activity, aimed at promoting the sale or use of goods or services in return for payment; self-promotion shall also be a form of advertising,
- 18) “sponsorship” shall mean any contribution made by an entity not engaged in providing media services or in the production of programmes, to the financing of a media service or programme with a view to promoting its name, business name, image, activities, product or service, trade mark or any other proprietary identification,
- 19) “teleshopping” shall mean any commercial communication containing a direct offer of sale of products or supply of services in return for payment,
- 20) “surreptitious commercial communication” shall mean the representation of goods, services, the name, business name, the trade mark or the activities of an entrepreneur who is a producer of goods or a provider of services in programmes when the intention of the media service provider, in particular related to payment or another benefit, is to achieve an advertising effect and the public might be misled as to the nature of the communication,
- 21) “product placement” shall mean a commercial communication consisting of the inclusion of or reference to a product, a service or the trade mark thereof so that it is featured within a programme, in return for payment or for similar consideration as well as by gratuitous provision of a product or service,
- 22) “thematic placement” shall mean a commercial communication consisting of a reference to a product, a service or the trade mark thereof in a script or a dialogue list of a programme in return for payment or for similar consideration,
- 23) “self-promotion” shall mean any broadcast originating from a media service provider that is intended to serve to directly or indirectly promote its programmes, goods or services,
- 24) “teletext service” shall mean a set of texts and motionless images transmitted by means of a television or radio signal simultaneously with the programme service,
- 25) “producer” shall mean a natural person, legal person or an organisational unit referred to in Article 33<sup>1</sup> § 1 of the Polish Civil Code, which ventures, actually organises and bears responsibility for the creative, organisational and financial process of producing audiovisual works,

- 26) “producer independent of a given broadcaster” shall mean a producer who is not bound by employment relation with the given broadcaster, is not a broadcaster itself and holds no stake in the broadcaster’s organisation, and in which neither the broadcaster nor any of its subsidiaries nor any companies associated in the same group hold a stake, and if members of its governing bodies are not bound by employment relation with the given broadcaster and are not broadcasters themselves,
- 27) “business operator” shall mean a business operator as defined in the Freedom of Business Activity Act of 2 July 2004,
- 28) “audio description” shall mean a verbal, sound description of image and visual content of an audiovisual programme, intended for visually impaired persons, included in a programme or transmitted simultaneously with a programme,
- 29) “information and communications technology system” shall mean an information and communications technology system as defined in the Act of 18 July 2002 on Provision of Services via Electronic Means (official journal “Dz.U” No. 144, item 1204, as further amended),
- 30) “telecommunications network” shall mean a telecommunications network as defined in the Act of 16 July 2004 – “Telecommunications Law” (official journal “Dz.U.” No 171, item 1800, as further amended).

## **CHAPTER 2**

### **The National Broadcasting Council**

#### Article 5

The National Broadcasting Council (hereinafter referred to as “the National Council”) shall hereby be established and shall constitute the state authority competent in matters of radio and television broadcasting.

#### Article 6

1. The National Council shall safeguard freedom of speech in radio and television broadcasting, protect the independence of media service providers and the interests of the public, as well as ensure an open and pluralistic nature of radio and television broadcasting.
2. The tasks of the National Council shall be, in particular:
  - 1) to draw up, in agreement with the Prime Minister, the directions of the State policy in respect of radio and television broadcasting,
  - 2) to determine, within the limits of powers granted to it under this Act, the terms of conducting activities by media service providers,
  - 3) to make, within the scope set forth by the Act, decisions concerning broadcasting licences to transmit programme services, entry into the register of programme services, hereinafter the “register”, and keeping the register,
- 3a) to grant to a broadcaster the status of a social broadcaster or to revoke such status, on terms laid down in the Act,

- 4) to supervise the activity of media service providers within the limits of powers granted to it under the Act,
- 5) to organise research into the content and audience of radio and television programme services,
- 5a) to monitor the market of on-demand audiovisual media service for the purpose of identifying providers of on-demand audiovisual media services and evaluating their compliance with obligations arising under the Act,
- 6) to determine fees for the award of broadcasting licences and registration,
- 6a) to determine licence fees in accordance with the principles set forth in the Licence Fees Act of 22 April 2005 (official journal "Dz.U.", No. 85, item 728 and No. 157, item 1314, and of 2010, No. 13, item 70 and No. 152, item 1023),
- 7) to act as a consultative body in drafting legal instruments and international agreements related to radio and television broadcasting or on-demand audiovisual media services,
- 7a) (expired),
- 8) to initiate research and technical development and training in the field of radio and television broadcasting,
- 9) to organise and initiate international co-operation in the field of radio and television broadcasting, including cooperation with regulatory bodies of Member States of the European Union competent for media services,
- 10) to co-operate with appropriate organisations and institutions in respect of protecting copyright as well as the rights of performers, producers and media service providers,
- 11) to hold public and open competitions to select members of Supervisory Boards of public radio and television broadcasting organizations,
- 12) to initiate and support self-regulation and co-regulation in the area of provision of media services,
- 13) to promote media literacy (media education) and to cooperate with other state authorities, non-governmental organizations and other institutions in the area of media education.

## Article 7

1. The National Council shall consist of 5 members, of which 2 shall be appointed by the Sejm<sup>1</sup>, 1 by the Senate and 2 by the President from amongst persons with a distinguished record of knowledge and experience in public media.
2. (expired).
- 2a. (repealed).
- 2b. The Chairman of the National Council shall be elected by the National Council from amongst its members; the Chairman shall also be dismissed by the Council's members.
3. Upon a motion of the Chairman, the National Council shall elect from amongst its members a Vice-Chairman of the National Council.
4. The term of office of the members of the National Council shall be six years from the day of appointment of the last member. Members of the National Council shall perform their functions until the appointment of successors.

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<sup>1</sup> TRANSLATOR'S NOTE: The „Sejm” is the proper name of the Lower House of the Polish Parliament.

5. A member of the National Council may not be appointed for another full term of office.
6. The body which is empowered to appoint a member of the National Council shall dismiss such a member solely in cases when the said person:
  - 1) has resigned,
  - 2) has become permanently unable to discharge of duties for reasons of ill health,
  - 3) has been convicted of a deliberate criminal offence by a valid judgement,
  - 3a) has submitted an untruthful screening statement, as confirmed by a final and valid decision of the court,
  - 4) has committed a breach of the provisions of the Act and the said breach has been confirmed by the decision of the Tribunal of State.
7. In case of a dismissal or death of a member prior to the end of the term of office, the appropriate body shall appoint another member of the National Council for the remainder of the term of office.

#### Article 8

1. The employer of a member of the National Council shall, at the member's request, grant to such a member a leave of absence, without pay, for the time of holding an office. The time of the leave shall be accounted towards the duration of the member's employment, on the basis of which other benefits resulting from the relation of employment are derived.
2. (repealed).
3. During the term of office of members of the National Council, their membership in:
  - 1) (repealed),
  - 2) governing bodies of associations, trade unions, employers' associations, as well as church or religious organisations,shall be suspended.
4. It is prohibited to combine the service of a member of the National Council with holding an interest or shares, or with any other involvement, in an entity which is a media service provider or a radio or television producer, as well as with any other gainful employment, save for educational or academic positions of an academic tutor or lecturer or performing creative work.

#### Article 9

1. The National Council shall issue regulations and adopt resolutions on the basis of the existing legislation and for the purpose of its implementation.
2. The National Council shall adopt resolutions by a two-thirds majority of votes of the total number of its members specified in the Act.
3. The National Council shall adopt the internal rules of procedure binding upon the Council.



## Article 10

1. The Chairman of the National Council shall direct its work, represent the Council and perform the tasks specified in the Act.
2. The Chairman of the National Council may require a media service provider to provide materials, documentation and information to the extent necessary for the purpose of supervising the provider's compliance with the provisions of the Act, the terms of the broadcasting licence or self-regulation acts binding upon it.
3. The Chairman of the National Council may call upon a media service provider to cease practices in respect of provision of media services if they infringe upon the provisions of the Act, resolution of the National Council or terms of the broadcasting licence.
4. Acting by virtue of the Council's resolution, the Chairman of the National Council may issue a decision ordering the media service provider to cease the practices referred to in paragraph 3.
5. Paragraphs 2-4 shall apply respectively to the retransmission of radio and television programme services.

## Article 11

1. The National Council shall perform its tasks with the assistance of the Office of the National Council.
2. The organisation and operational procedures of the Office of the National Council shall be laid down in the internal rules of procedure adopted by the National Council.
3. Costs of operations of the National Council and its Office shall be borne by the state budget.
4. Regulations relating to employees of public institutions shall apply to the employees of the Office of the National Council.

## Article 12

1. By the end of March each year, the National Council shall submit to the Sejm, the Senate and the President an annual report on its activities during the preceding year, as well as information concerning key issues in radio and television broadcasting.
2. Each year, the National Council shall present to the Prime Minister an annual account of its activities as well as information on key issues in radio and television broadcasting.
3. By way of resolutions, the Sejm and the Senate shall accept or reject the report referred to in paragraph 1. A resolution concerning acceptance of the report may contain remarks and reservations.
4. In case of rejection of the report by both the Sejm and the Senate, the term of office of all the members of the National Council shall expire within 14 days from the date of the last resolution to this effect, subject to the reservation contained in paragraph 5.
5. The National Council's term of office shall not expire unless so approved by the President of the Republic of Poland.

### **CHAPTER 3**

#### **Radio and Television Programme Services**

##### Article 13

1. The broadcaster shall enjoy full independence in determining the content of the programme service with a view to fulfilling the tasks referred to in Article 1 paragraph 1 and shall be responsible for its contents.
2. The provision of paragraph 1 shall not prejudice the provisions on third party liability for the content of particular programmes, advertising or other broadcasts.

##### Article 14

1. An obligation to transmit or to desist from transmitting a particular programme or broadcast may be imposed upon a broadcaster only by virtue of the Act.
2. Programmes and broadcasts coming from a source other than the broadcaster shall be clearly distinguishable as such and recognisably separate from the other items of the programme service, leaving no doubt as to their origin from a source other than the broadcaster.

##### Article 14a

1. The broadcaster shall ensure an easy, direct and permanent access to information that allows to identify the programme service and its broadcaster to the recipients, in particular access to the following information:
  - 1) the name of the programme service,
  - 2) the last name, name or business name of its broadcaster,
  - 3) the address of its seat,
  - 4) contact data, including mailing address, electronic mail address and website.
2. The broadcaster shall identify the National Council as the authority competent for radio and television broadcasting.
3. The National Council may determine, by a regulation, the manner of ensuring, by broadcasters, access to information that allows to identify the programme service and its broadcaster, as well as information other than listed in paragraph 1, taking into account the needs of the recipients, integrity of broadcasts, manner of transmitting the programme service and impact on the interests of the recipients, striving not to impose upon providers any excessive burdens and costs in connection with provision of information.

##### Article 15

1. Television broadcasters shall reserve at least 33% of their quarterly transmission time for programmes originally produced in the Polish language, excluding news, advertising, teleshopping, sports events, teletext services and games.
2. Broadcasters of radio programme services, excluding programme services produced entirely in a language of a national or ethnic minority, or in a regional language as defined in Article 19 of the Act of 6 January 2005 on National and Ethnic Minorities and the Regional Language (official journal "Dz.U." No. 17, item 141 and No. 62, item 550;

as well as of 2009 No. 31, item 206 and No. 157, item 1241), shall reserve at least 33% of their monthly transmission time devoted to verbal-musical works for works performed in the Polish language, of which at least 60% during the hours 5.00 – 24.00.

- 2a. To determine transmission time during the hours 5.00 – 24.00, referred to in paragraph 2, the transmission time of a verbal-musical work performed in the Polish language by a debutant, broadcast during these hours, shall count as 200% of the transmission time of the work.
- 2b. A work performed by a debutant shall be deemed to mean a verbal-musical work performed in the Polish language that was transmitted in a radio programme service in a given settlement period, and the period that elapsed from the date of first transmission is shorter than 18 months, with the reservation that a debutant shall be deemed to mean exclusively an artist or a music band that during the above 18-month period released for the first time an album with verbal-musical works or a single recording of a verbal-musical work.
3. Television broadcasters shall reserve more than 50% of their quarterly transmission time for European works, excluding news, advertising, teleshopping, sports events, teletext services and games.
4. The National Council shall determine, by a regulation, a lower share of the programmes referred to in paragraphs 1 and 3 in a television programme service, and of the works referred to in paragraph 2 in a radio programme service, for:
  - 1) broadcasters during the first year of transmission of their programme service,
  - 2) thematic programme services, for which the number of available programmes referred to in paragraphs 1 and 3, or works referred to in paragraph 2, is insufficient,
  - 3) programme services in case of which the issued broadcasting licence specifies that these programme services are intended for national or ethnic minorities and a community using a regional language,
  - 4) programme services transmitted solely via information and communications technology systems,
  - with due regard for the need to ensure that a proportion of programmes originally produced in the Polish language and of European works is maintained, as well as with due regard for the possibility to fulfil these obligations in given programme service categories.

#### Article 15a

1. Television broadcasters shall reserve at least 10% of their quarterly transmission time for European works produced by independent producers, excluding news, advertising, teleshopping, sports events, teletext services, and games. Programmes produced within the period of 5 years before their transmission in the programme service shall constitute at least 50 % of the time reserved for European works produced by independent producers.
2. The National Council shall determine, by a regulation, with regard to the programmes and works referred to in Article 15 paragraphs 1 and 3 and paragraph 1 hereof:
  - 1) the manner of keeping a record of transmission time by the broadcasters,
  - 2) the period of storage of such record, not less than 1 year,

3) the scope of recorded information, including information about the date of transmission of the programme, actual duration of the programme, title and producer of the programme,

- with due regard for the possibility of keeping the said record in an electronic form, the need to ensure transparency and openness of registered information, and refraining from imposing upon broadcasters any excessive burdens and costs related to keeping the records.

3. The National Council shall determine, by a regulation, a lower share of European works produced by independent producers within the period of 5 years before their transmission in the programme service with respect to television programme services for which the number of such works is not sufficient in view of the thematic nature of the programme service, with due regard for the impact of the nature of programme services on broadcasters' capabilities to fulfil these obligations.

#### Article 15b

1. A programme shall be deemed to be European work, if it:
  - 1) originates in a Member State of the European Union, or
  - 2) originates in another state party to the European Convention on Transfrontier Television done in Strasbourg on 5 May 1989 (official journal "Dz.U." of 1995, No. 32, item 160 and of 2004, No. 28, item 250), hereinafter the "European Convention on Transfrontier Television", which does not apply discriminatory measures against any programmes originating in Member States of the European Union, or
  - 3) was co-produced within the framework of an agreement related to the audiovisual sector concluded between the European Union and other third state, and fulfils the requirements defined in the agreement, if this state does not apply discriminatory measures against any programmes originating in Member States of the European Union.
2. A programme originates in the states referred to in paragraph 1 subparagraphs 1 and 2, if the majority of the creative team members have their permanent residence in the territory of one of those states and provided at least one of the following conditions is met:
  - 1) the programme was produced by a producer whose seat or permanent residence is in the state referred to in paragraph 1 subparagraphs 1 and 2,
  - 2) the production of the programme is supervised and controlled by a natural person having a permanent residence in the state referred to in paragraph 1 subparagraphs 1 and 2, or by a legal person or entity having no legal personality, while its seat is located in the state referred to in paragraph 1 subparagraphs 1 and 2,
  - 3) the contribution of co-producers having a seat or permanent residence in the state referred to in paragraph 1 subparagraphs 1 and 2, to the total production costs is preponderant and the co-production is not under control of co-producers that do not have their seat or permanent residence in the state referred to in paragraph 1 subparagraphs 1 and 2.
3. (repealed).
4. A programme shall also be deemed European work, if it was made pursuant to bilateral co-production agreements concluded by Member States of the European Union and third parties, and the contribution of co-producers having a seat or permanent residence

in the State referred to in paragraph 1 subparagraph 1, to the total production costs is preponderant and the co-production is not under the control of co-producers that do not have their seat or permanent residence in the territory of the State referred to in paragraph 1 subparagraph 1.

5. (repealed).

## Article 16

1. Commercial communications shall be readily recognizable.
2. Advertising and teleshopping shall be readily distinguishable from editorial content. Advertising and teleshopping shall be kept quite distinct from other parts of the programme service by optical, acoustic or spatial means.
3. Advertising and teleshopping shall not exceed 12 minutes in any given clock hour.
4. The limit set out in paragraph 3 shall not apply to:
  - 1) announcements made by the broadcaster containing solely information on its programmes or extracts of such programmes,
  - 2) announcements made by the broadcaster containing solely information on ancillary products directly derived from the programme,
  - 3) identification of commercial communications required by law, including identification of sponsors.
5. The announcements referred to in paragraph 4 subparagraphs 1 and 2 shall be broadcast between programmes and shall not last more than 2 minutes within any clock hour.
6. Teleshopping windows shall be clearly identified as such by optical and acoustic means and shall be of a minimum uninterrupted duration of 15 minutes. The limit set out in paragraph 3 shall not apply to such windows.
7. The National Council shall determine, by a regulation, the manner in which advertising and teleshopping activities may be conducted in radio and television programme services, including:
  - 1) the conditions of broadcasting, including of separation, identification and insertion, of advertising and teleshopping in programme services,
  - 2) the requirements with respect to persons whose voice or image is used in advertising, including restrictions on their ability to host other programmes in radio and television programme services,
  - 3) the extent to which a broadcaster may allot transmission time for advertising and teleshopping, including the maximum amount of time allotted per annum for one business operator or business group,
  - 4) the manner in which the broadcaster shall keep and store a record of duration of broadcast advertising and teleshopping, and the scope of data to be recorded,
  - 5) detailed requirements for the broadcasters' announcements, referred to in paragraph 4 subparagraphs 1 and 2, and the manner of their identification and insertion in programme services,

- guided by the need to protect the interests of recipients and independence of broadcasters and taking into consideration the development of advertising technologies.

## Article 16a

1. Advertising and teleshopping inserted during programmes shall not prejudice the integrity of the programmes, taking into account natural breaks in and the duration and the nature of the programme concerned, and the rights of the right holders.
2. During coverage of sports events containing mandated intervals and of other events containing intervals, advertising or teleshopping shall only be inserted in the intervals.
3. Films made for television, excluding series, serials and documentaries, and cinematographic works may be interrupted by advertising or teleshopping once for each scheduled period of full 45 minutes.
4. Programmes other than those specified in paragraph 2 may be interrupted by advertising or teleshopping if a period of at least 20 minutes, in a television programme service, and at least 10 minutes, in a radio programme service, has elapsed between each successive break in the programme.
5. Any advertising or teleshopping inserted during a programme shall be deemed interruption of a programme.
6. The following programmes may not be interrupted by advertising or teleshopping:
  - 1) news programmes,
  - 2) programmes with a religious content,
  - 3) commentaries and documentaries, the duration of which is less than 30 minutes,
  - 4) children's programmes.
7. Programmes in a public radio and television programme service, with the exception of programmes referred to in paragraph 2, shall not be interrupted by advertising or teleshopping.

## Article 16b

1. It shall be prohibited to broadcast commercial communications for following goods and services:
  - 1) tobacco products, tobacco accessories, products imitating tobacco products or accessories and symbols related to the use of tobacco, to the extent regulated in the Act of 9 November, 1995 on Protection of Health Against the Effects of Use of Tobacco and Tobacco Products (official journal "Dz.U." of 1996, No. 10, item 55, as further amended<sup>1)</sup>),
  - 2) alcoholic beverages, to the extent regulated in the Act of 26 October, 1982 on Upbringing in Sobriety and Counteracting Alcoholism (official journal "Dz.U." of 2007, No. 70, item 473, as further amended<sup>2)</sup>),
  - 3) health benefits as defined in regulations on medical treatments provided only on prescription,
  - 4) medicinal products, to the extent regulated in the Act of 6 September, 2001 – "Pharmaceutical Law" (official journal "Dz.U." of 2008, No. 45, item 271 as further amended<sup>3)</sup>),
  - 5) cylindrical games, card games, dice, mutual bets, slot machines, to the extent regulated in the Gambling Act of 19 November, 2009 (official journal "Dz.U." No. 201, item 1540; and of 2010, No. 127, item 857),

- 6) psychoactive drugs or narcotics and foods or other products, to the extent governed by the Act of 29 July, 2005 on Counteracting Drug Addiction (official journal "Dz.U." No. 179, item 1485, as further amended).
2. It shall be prohibited to broadcast commercial communications that:
  - 1) directly exhort minors to purchase products or services,
  - 2) encourage minors to exert pressure upon their parents or other persons to persuade them to purchase the products or services being advertised,
  - 3) exploit the trust minors place in parents, teachers or other persons,
  - 4) unreasonably show minors in dangerous situations,
  - 5) are of a subliminal nature.
3. Commercial communications shall not:
  - 1) prejudice respect for human dignity,
  - 2) include any discrimination on grounds of race, sex, nationality, ethnic origin, religion or belief, disability, age or sexual orientation,
  - 3) be offensive to religious or political beliefs,
  - 4) prejudice the physical, mental or moral development of minors,
  - 5) encourage behaviour prejudicial to health, safety or environmental protection.
- 3a. Children's programmes shall not be accompanied by commercial communications for foods or beverages containing ingredients excessive intakes of which in the every day diet are not recommended.
- 3b. After seeking opinion of the minister in charge of health, the National Council may, by a regulation, define:
  - 1) types of foods or beverages containing ingredients excessive intakes of which in the every day diet are not recommended,
  - 2) manner of inserting commercial communications for these products in programme services so that they do not accompany children's programmes  
- in an effort to encourage broadcasters to counteract promotion of unhealthy diet among children and taking into account the nature of programme services, their impact on public opinion and interests of recipients, without imposing unjustified obligations on broadcasters.
4. (repealed).

#### Article 16c

The following shall be prohibited:

- 1) surreptitious commercial communications,
- 2) product placement, subject to Article 17a,
- 3) thematic placement.

#### Article 17

1. Recipients shall be clearly informed about sponsoring. Sponsored programmes or other broadcasts shall be identified as such by sponsor credits at the start and the end of the programme, and when a programme resumes after an advertising or teleshopping break. Such credits may specify only the sponsor's name, business name, trademark or

contain some other identification of the business operator or its business activities, a reference to its products, services or their trademark.

- 1a. The identification of the sponsor or any component part thereof may not directly encourage the purchase or rental of goods or services, in particular by making special promotional references to those goods or services.
2. Identification of the sponsor may not contain the name, business name, trademark or other individual identification of the business operator or its business activities, the image of a single product or service, the advertising of which is prohibited by virtue of Article 16b paragraph 1.
3. The sponsor may not influence the content of the programme or any other broadcast and their scheduling in a manner which would prejudice the autonomy and editorial independence of the broadcaster. Sponsorship shall not release the broadcaster from liability for the content of the programme.
4. Sponsored programmes or other broadcasts may not encourage the purchase or other use of the products or services of the sponsor or a third party.
5. Subject to the reservations contained in paragraph 6, programmes or other broadcasts may not be sponsored by:
  - 1) political parties,
  - 2) trade unions,
  - 3) employers' organisations,
  - 4) natural or legal persons whose principal activity consists in the production or sale of products or the provision of services referred to in Article 16b paragraph 1.
6. Sports events coverage may not be sponsored by entities referred to in paragraph 5 subparagraphs 1-3 and by business operators whose principal activity consists in the production, sale or other form of supply of products or services, the advertising of which is prohibited by virtue of Article 16b paragraph 1, subparagraphs 1 and 2, subject to the stipulations of Article 13<sup>1</sup> paragraphs 5 and 6, of the Act on Upbringing in Sobriety and Counteracting Alcoholism.
- 6a. Sponsorship of programmes or other broadcasts by entities that pursue business in the area of cylindrical games, card games, dice, mutual betting and slot machines shall be prohibited.
7. Sponsorship of the following programmes shall be prohibited:
  - 1) news, with the exception of sports and weather forecasts,
  - 2) commentaries on social and political topics,
  - 3) consumer and practical advice programmes,
  - 4) electoral programmes or programmes directly related to electoral campaigns.
8. The National Council shall determine, by a regulation, the manner in which programmes or other broadcasts may be sponsored, having regard to the provisions of paragraphs 1-7, in particular the time of the broadcast, sponsor credits and manner of transmission of information about the sponsor in the opening announcement or trailer of the programme or following the end of the programme or other broadcast, as well as during the programme or other broadcast. In the said regulation, the National Council shall determine the manner in which the broadcaster shall keep and store a record of sponsored programmes or other broadcasts and the scope of information to be recorded.



## Article 17a

1. Product placement shall be admissible exclusively:
  - 1) in cinematographic works, films or series made for audiovisual media services, sports programmes and light entertainment programmes, or
  - 2) where there is no payment but only the provision of certain goods or services free of charge, such as production props and prizes, with a view to their inclusion in a programme- with the exception of children's programmes.
2. Programmes that contain product placement shall be identified with a graphic sign in television programme services, and with an acoustic symbol in radio programme services, informing about product placement, at the start and the end of the programme, and when a programme resumes after an advertising or teleshopping break.
3. Neutral information on the producer or seller of the placed product or an entity providing the placed service as well as on the product or the service shall be inserted at the end of the programme referred to in paragraph 2, produced with the contribution of a broadcaster or on its order.
4. Product placement shall not prejudice the autonomy and editorial independence of the broadcaster through its impact on contents or scheduling and shall not release the broadcaster of the liability for contents of the programme.
5. Programmes that contain product placement shall not:
  - 1) give undue prominence to the product in question,
  - 2) directly encourage the purchase or rental of goods or services, in particular by making promotional references to those goods or services.
6. Product placement of goods and services referred to in Article 16b paragraph 1 shall be prohibited.
7. The broadcaster shall keep and store a register of programmes that contain product placement.
8. The Chairman of the National Council may, to the extent necessary to control compliance of the broadcaster's activities with the provisions of paragraphs 1 – 7, request the broadcaster to submit documentation related to product placement. Provision of Article 10 paragraph 2 shall apply accordingly.
9. The National Council shall define by a regulation:
  - 1) the detailed conditions of identification of programmes that contain product placement by the broadcaster, including the specimen of the graphic sign and form of the acoustic symbol referred to in paragraph 2,
  - 2) the manner of keeping and storing the register of programmes that contain product placement by the broadcaster, and the scope of data subject to registration,- taking into account interests of the recipients and capabilities of broadcasters to keep the register in an electronic format, without imposing excessive burdens and costs on the broadcasters.

## Article 18

1. Programmes or other broadcasts may not encourage actions contrary to law and Poland's *raison d'Etat* or propagate attitudes and beliefs contrary to the moral values

and social interest. In particular, they may not include contents inciting to hatred or discriminating on grounds of race, disability, sex, religion or nationality.

2. Programmes or other broadcasts shall respect the religious beliefs of the public and especially the Christian system of values.
3. Programmes or other broadcasts may not encourage conduct prejudicial to health, safety or the natural environment.
4. Transmission of programmes or other broadcasts threatening the physical, mental or moral development of minors, in particular those containing pornography or exhibiting gratuitous violence, shall be prohibited.
5. Programmes or other broadcasts containing scenes or contents which may have an adverse impact upon a healthy physical, mental or moral development of minors, other than those referred to in paragraph 4, may be transmitted only between 11 p.m. and 6 a.m.
- 5a. Broadcasters shall be obligated to identify programmes or other broadcasts referred to in paragraph 5 by way of displaying an appropriate graphic symbol throughout their duration in the television programme service or by way of an oral announcement informing of the hazards arising out of their transmission in the radio.
- 5b. Broadcasters shall be obligated to identify programmes or other broadcasts, other than those referred to in paragraph 5, excluding news, advertising, teleshopping, sports events, teletext services, by way of displaying an appropriate graphic symbol throughout their duration in the television programme service, with due regard for the degree of harmful effect of the given programme or broadcast upon minors in a particular age group.
6. The National Council shall determine, by a regulation:
  - 1) features of programmes and detailed criteria for their classification, transmission and the manner of announcing programmes or other broadcasts referred to in paragraph 5,
  - 2) classification of minors into age groups and detailed criteria for classification and transmission of programmes and other broadcasts referred to in paragraph 5b, with due regard for the hours of transmission of programmes or other broadcasts intended for a given age group,
  - 3) specimens of graphic symbols and forms of announcements referred to in paragraphs 5a and 5b, and the manner of their presentation,
    - with due regard for the degree of harmful effect of the given programme upon minors in a particular age group.
7. Broadcasters shall ensure the proper quality of the Polish language in their programme services and shall counteract its vulgarisation.

#### Article 18a

1. Broadcasters of television programme services shall ensure accessibility of programme services for visually impaired persons and hearing impaired persons by introducing appropriate aids: audiodescription, subtitles for the hearing impaired and interpretations into the sign language, so that such aids are provided during at least 10% of the quarterly transmission time of the programme service, with the exception of advertising and teleshopping.
2. The National Council may define, by a regulation, a lower share of programmes with reception aids for visually impaired persons and hearing impaired persons in the

television programme service than the share set forth in paragraph 1, with due regard for the diverse programming offer at different air times, technical capabilities, needs of the recipients, manner of transmission and main theme of the programme service, without imposing unreasonable obligations on broadcasters.

#### Article 19

1. Broadcasters' activity consisting in producing and organising programme services shall be carried out in the form of editorial activity as defined in the press law.
2. The provisions concerning the production and transmission of radio and television programme services shall apply respectively to teletext service.

#### Article 20

1. The broadcaster shall record programmes, advertising or other broadcasts on suitable carriers and store them for a period of 28 days from the date of their transmission. After the lapse of that period, recordings of programmes, advertising or other broadcasts which are subject to proceedings before public authorities shall be stored until the end of such proceedings.
- 1a. Upon request of the Chairman of the National Council an operator that retransmits a programme service shall record the programme service identified in the request for the specified period, not longer than 14 days, and shall forthwith provide the recording thereof.
2. Recordings of a programme, advertising or other broadcasts shall be made available to any person claiming that the content of such programme, advertising or other broadcast infringed that person's rights, at the written request of such person and at the expense of the broadcaster, or shall be delivered to such person at this persons' expense, within 7 days from the date of such written request.
3. Should the request to make available the recording of a programme, advertising or other broadcasts be rejected, the person referred to in paragraph 2 may seek a court injunction ordering the broadcaster to make such a recording available; the court of law having proper jurisdiction over such cases shall be the district court.
4. The National Council shall determine, by a regulation, the manner of recording and storing by broadcasters the programmes, advertising and other broadcasts, including the scope of data to be provided about the stored materials.

#### Article 20a

1. At the written request of the President of the Office for Competition and Consumer Protection, the broadcaster shall:
  - 1) disclose the data that allows to identify the person who ordered a programme or commercial communication,
  - 2) deliver, free of charge, the recording of the programme or commercial communication within 7 days from the date of the request.
2. The provision of Article 20 paragraph 3 shall apply accordingly.

## Article 20b

1. A television broadcaster may broadcast live coverage of an event of major importance for society, hereinafter referred to as a “major event”:
  - 1) only in a national programme service as defined in the Act or in the broadcasting licence, accessible entirely free of charge, excluding licence fees as defined in the Licence Fees Act of 21 April 2005 and basic fees charged by cable network operators, or
  - 2) if the same event is also being transmitted by the broadcaster of a programme service meeting the conditions laid down in subparagraph 1, pursuant to a contract with the broadcaster who had acquired the rights to provide the live coverage of the given event or with any other authorised party, with the reservation of paragraph 6.
3. In view of a widespread social interest, major events shall include, among others:
  - 1) summer and winter Olympic Games,
  - 2) semi-finals and finals of World Cup and European Football Championship, as well as all other matches within those events with the participation of the Polish national team, including qualifying games,
  - 3) other football matches with the participation of the Polish national team in official tournaments and matches with the participation of Polish clubs within the Champions League and UEFA Cup.
3. The National Council may specify, by a regulation, a list of major events other than those listed in paragraph 2, having regard to the degree of social interest in the given event and its significance to social, economic and political life.
4. Should a major event be expected to be organised in parts, every such part shall be deemed a major event.
5. The provision of paragraph 1 shall apply to deferred coverage if the delay in transmitting the given major event does not exceed 24 hours and is due to important reasons, in particular if:
  - 1) the time, in which the given event takes place, falls between 12 a.m. and 6 a.m. (24:00-6:00) of the official time in the territory of the Republic of Poland,
  - 2) major events or parts thereof overlap in time.
6. The provision of paragraph 1 shall not apply if the given broadcaster can demonstrate that no broadcaster of a programme service meeting the requirements laid down in paragraph 1 subparagraph 1 was ready to conclude a contract ensuring the coverage in accordance with paragraph 1 subparagraph 2.
7. Within the scope laid down by international agreements binding upon the Republic of Poland, the National Council may determine, by a regulation:
  - 1) the list of events deemed as being of major importance for society by other European states,
  - 2) rules governing the exercise of exclusive rights to television coverage of events referred to in subparagraph 1, so as to ensure that the exercise of those rights by broadcasters subject to the Act shall not deprive the viewers in a given state of the possibility of receiving those events under the rules laid down by the given state in accordance with the provisions of international law.

## Article 20c

1. A broadcaster of a television programme service who has the right to transmit an event of high interest to the public, hereinafter the “event”, on an exclusive basis, shall enable other television broadcasters to exercise the right to a short news report.
2. The right to a short news report shall be vested with any broadcaster established in:
  - 1) the Republic of Poland,
  - 2) another Member State of the European Union or a state party to the European Convention on Transfrontier Television, unless another broadcaster or entity in the state in which the broadcaster seeking access is established has the right to transmit the event and may ensure access to a short news report on the event.
3. The exercise of the right to a short news report shall be enabled by making accessible, to the broadcaster seeking access, short excerpts from the transmitted event, selected by the broadcaster, with aggregate duration not exceeding 90 seconds, from the signal of the broadcaster referred to in paragraph 1, against payment of costs of provision of such access.
4. The broadcaster who exercises the right to a short news report may broadcast the excerpts, made accessible to it pursuant to paragraph 3, within 24 hours, in general news programmes or accompanying sports news services, three times in a given programme service, in the form of a short information on the event not exceeding 90 seconds, provided that the source is clearly identified.
5. The broadcaster referred to in paragraph 1 shall be released from the obligation to enable the exercise of the right to a short news report in a manner specified in paragraph 3 if the broadcaster seeking to exercise that right may enter the venue of the event and prepare its own report. Provision of paragraph 4 shall apply accordingly.
6. Contractual arrangements preventing the exercise of the right to a short news report in accordance with paragraphs 1 – 4 shall be invalid.

## **CHAPTER 4** **Public Radio and Television**

### Article 21

1. Public radio and television shall carry out their public mission by providing, on terms laid down in this Act, the entire society and its individual groups with diversified programme services and other services in the area of information, journalism, culture, entertainment, education and sports which shall be pluralistic, impartial, well balanced, independent and innovative, marked by high quality and integrity of broadcast.
- 1a. The tasks of public radio and television, resulting from the carried out mission referred to in paragraph 1, shall include in particular:
  - 1) production and transmission of national and regional programme services, programme services for reception abroad in the Polish language and in other languages as well as other programme services meeting the democratic, social and cultural needs of local societies,

- 2) production and transmission of thematic programme services if a broadcasting licence has been awarded for transmission of the said programme service,
  - 3) construction and operation of radio and television transmitters and relay stations,
  - 4) transmission of teletext services,
  - 5) work on new technologies of production and transmission of radio and television programme services,
  - 6) production, provision of services and carrying out commercial activities related to audiovisual production, including exports and imports,
  - 7) encouraging artistic, literary, scientific and educational and sport activities,
  - 8) dissemination of knowledge of Polish language,
  - 8a) paying due regard to the needs of national and ethnic minorities and communities speaking regional languages, including broadcasting news programmes in the languages of national and ethnic minorities and in regional languages;
  - 9) production of educational programmes and ensuring access by people of Polish descent and Poles living abroad to such programmes,
  - 10) ensuring accessibility of programme services or parts thereof as well as of other services to visually impaired persons and hearing impaired persons,
  - 11) promotion of media education.
2. Programme services and other services of public radio and television should:
- 1) be guided by the sense of responsibility for the content of the message and by the need to protect the good reputation of public radio and television,
  - 2) provide reliable information about the vast diversity of events and processes taking place in Poland and abroad,
  - 3) encourage an unconstrained development of citizens' views and formation of the public opinion,
  - 4) enable citizens and their organisations to take part in public life by expressing diversified views and approaches as well as exercising the right to social supervision and criticism,
  - 5) assist the development of culture, science and education, with special emphasis on the Polish intellectual and artistic achievements,
  - 6) respect the Christian system of values, being guided by the universal principles of ethics,
  - 7) serve to strengthen the family ties,
  - 7a) advance the propagation of pro-health attitude,
  - 7b) serve to promote and popularize sport,
  - 8) contribute to combating social pathologies,
  - 9) (repealed),
  - 10) contribute to media education.
3. Acting in agreement with the National Council, every year public radio and television broadcasting organizations shall prepare financial & programme plans of projects involving performance of tasks referred to in paragraphs 1 and 1a that require to be financed with public funds, having regard to a part of costs of operation and development of these organizations.
4. The National Council shall define, by a regulation, dates for submission and scopes of financial & programme plans so as to ensure pursuance of the public mission by public

radio and television broadcasting organizations as well as having regard to the freedom of public broadcasters to determine the contents of programme services.

#### Article 22

1. State authorities may take decisions concerning the functioning of public radio and television broadcasting organisations only in circumstances specified in the existing legislation.
2. Public radio and television broadcasting organisations shall facilitate direct presentation and explanation of the State policy by supreme State authorities.
3. The National Council shall determine, by a regulation, the procedure of action in respect of matters referred to in paragraph 2.

#### Article 23

1. Public radio and television broadcasting organisations shall enable political parties to present their position with regard to major public issues.
2. The provision of paragraph 1 shall apply correspondingly to national trade unions and employers' organisations.
3. The National Council shall determine, by a regulation, the procedure of action in respect of matters referred to in paragraphs 1 and 2.

#### Article 23a

1. Public radio and television broadcasting organisations shall enable public benefit organisations referred to in the Act of 24 April 2003 on Public Benefit and Volunteer Work (official journal "Dz.U." of 2010, No. 234, item 1536) to inform, without payment, about the activities carried out for free by these organisations.
2. Paragraph 1 shall not in any way exclude the broadcaster's right to provide more extensive information about the activities of public benefit organisations.
3. Acting in agreement with the minister in charge of social security, the National Council shall determine, by a regulation, the procedure of action in respect of informing, without payment, about public benefit activities carried out free of charge by public benefit organisations, including the manner of preparing and broadcasting programmes as well as their intended transmission time, having regard to the diversity of public tasks defined in Article 4 of the Act on Public Benefit and Volunteer Work and to their significance for the community.

#### Article 24

1. Entities participating in elections to the Sejm, the Senate, the local self-government and the European Parliament shall be entitled to transmit election programmes in the public radio and television programme services on terms determined in separate provisions.
2. The provision of paragraph 1 shall apply respectively to the election of the President of the Republic of Poland.

3. Entities entitled to take part in a referendum campaign launched in the radio and television programme services as defined in Article 48 paragraph 1 of the Act of 14 March 2003 on Nationwide Referendum (official journal "Dz.U.", No. 57, item 507 as further amended<sup>4)</sup>) shall be enabled to transmit referendum programmes in public radio and television programme service on terms laid down in separate provisions.

#### Article 25

1. Public radio and television broadcasting organisations may produce and transmit programme services in the Polish language and other languages for receivers abroad.
2. Public radio and television broadcasting organisations shall produce and transmit educational programmes for schools and other educational institutions.
3. Educational programmes shall comply with the requirements of school curricula.
4. The costs of producing programme services and programmes referred to in paragraphs 1 and 2 shall be borne by the state budget within the limits determined in the Budget Act.
5. The scope and manner of conducting the activity referred to in paragraphs 1 and 2 as well as the principles of covering the costs of such an activity shall be defined in agreements concluded by ministers in charge respectively of foreign affairs and of national education with public radio and television organisations.

#### Article 26

1. Public radio and television broadcasting organisations shall operate exclusively in the form of the sole-proprietor joint stock company of the State Treasury, hereinafter referred to as "the company".
2. Public television shall be formed by the company "Telewizja Polska - Spółka Akcyjna" established for the purpose of producing and transmitting national programme services I, II, TV Polonia as well as regional television programme services.
- 2a. Regional branches of the company "Telewizja Polska - Spółka Akcyjna" shall have their corporate seats in: Białystok, Bydgoszcz, Gorzów Wielkopolski, Gdańsk, Katowice, Kielce, Kraków, Lublin, Łódź, Opole, Olsztyn, Poznań, Rzeszów, Szczecin, Warszawa, Wrocław.
3. Public radio shall be formed by:
  - 1) the company "Polskie Radio - Spółka Akcyjna"<sup>2</sup> established in order to produce and transmit national radio programme services and programme services for receivers abroad,
  - 2) companies founded to produce and transmit regional radio programme services, hereinafter referred to as "regional radio companies".
4. The provisions of the Code of Commercial Partnerships and Companies, except for Articles 312 and 402, shall apply to companies referred to in paragraphs 2 and 3, subject to Articles 27-30 of the Act.
5. Acting in agreement with the Chairman of the National Council, the President of the Office of Electronic Communications shall reserve, by a decision, the frequencies required for the companies to perform their statutory tasks and shall lay down the

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<sup>2</sup> TRANSLATOR'S NOTE: „Polish Radio - Joint-Stock Company”.



conditions of use of these frequencies. Any frequency reservations, modifications or withdrawals thereof shall be governed by the provisions of Articles 114 and 115 of the Act of 16 July 2004 - "Telecommunications Law" (official journal "Dz.U.", No. 171, item 1800 as further amended<sup>5)</sup>).

6. Acting in agreement with the Chairman of the National Council, the President of the Office of Electronic Communications shall allocate to companies producing and transmitting:
  - 1) national television programme services - the frequencies required to cover the territory of the country by the programme services transmitted by the "Polish Television I" and "Polish Television II" channels,
  - 2) national radio programme services - the frequencies required to cover the territory of the country by programme services transmitted on the first, second, third and fourth channels and frequencies needed to transmit radio programme services for listeners abroad,
  - 3) regional television programme services - the frequencies required to transmit regional television programme services,
  - 4) regional radio programme services - the frequencies required to transmit regional radio programme services.
7. The programme service on the TV Polonia Channel shall be transmitted by satellite.
8. The provisions of Article 115 paragraph 3 of the Act of 16 July 2004 - "Telecommunications Law" shall apply to the reservation of frequencies designated for transmission and retransmission of digital programme services by terrestrial diffusion or by satellite.

#### Article 27

1. The Board of Management shall consist of one to three members.
2. The Board of Management shall have a term of office of four years.
3. The National Council shall appoint members of the Board of Management, including the President of the Board of Management, by a resolution, on the motion of the Supervisory Board, and shall dismiss members, by a resolution, on the motion of the Supervisory Board or the General Meeting.
4. Members of the Board of Management shall comprise exclusively persons competent in management as well as radio and television broadcasting, appointed from amongst candidates selected in the competition held by the Supervisory Board.
5. The National Council shall define, by a regulation, the rules of competition to select candidates for members of the Board of Management, including the procedure for announcing, organizing and holding the competition as well as for announcing results of the competition, with consideration given to the need to ensure general accessibility of the competition, impartiality and open nature of the proceedings, efficient holding of the competition and assessment of competencies of candidates referred to in paragraph 4.
6. A member of the Board of Management may be dismissed in case:
  - 1) the member has been convicted of a deliberate criminal offence subject to public prosecution or of a fiscal offence, by virtue of a valid court judgement,
  - 2) the member has acted to the detriment of the company,

- 3) of occurrence of circumstances that permanently prevent the member from serving his/her function.
7. Members of Boards of Management and persons who serve managerial functions in public radio and television organizations shall, in their work and assessment of journalists and other creators subordinate to them, be guided by the principles of professionalism, honesty and reliability as well as the guidelines set forth in Article 21 paragraphs 1a and 2 of the Act.

## Article 28

1. The Supervisory Boards of “Telewizja Polska – Spółka Akcyjna” and “Polskie Radio – Spółka Akcyjna” shall consist of seven members: five members selected in the competition held by the National Council from amongst candidates competent in law, finance, culture and media, nominated by collegial bodies of university-type higher education institutions, one member appointed by the minister in charge of culture and national heritage and one member appointed by the minister in charge of the State Treasury.
- 1a. The Supervisory Boards of regional radio broadcasting companies shall consist of five members: four members selected in the competition held by the National Council from amongst candidates competent in law, finance, culture and media, nominated by collegial bodies of university-type higher education institutions, operating in the region, and one member appointed by the minister in charge of the State Treasury acting in agreement with the minister in charge of culture and national heritage.
- 1b. The National Council shall define, by a regulation, the rules of competition to select members of the Supervisory Board, including the procedure for announcing, organizing and holding the competition, nominating candidates as well as for announcing results of the competition, with consideration given to the need to ensure impartiality and open nature of the proceedings, efficient conduct of the competition and assessment of competencies of candidates referred to in paragraphs 1 and 1a.
- 1c. The resolution of the National Council concerning results of the competition, naming the persons selected in the competition, shall constitute the appointment to serve as members of the Supervisory Board.
- 1d. A member of the Supervisory Board may be dismissed by the authority that has appointed the member in case:
  - 1) the member has been convicted of a deliberate criminal offence subject to public prosecution or of a fiscal offence, by virtue of a final court judgement,
  - 2) the member has acted to the detriment of the company,
  - 3) of occurrence of circumstances that permanently prevent the member from serving his/her function.
2. The Supervisory Board shall adopt resolutions by an absolute majority of votes cast in the presence of at least a half of the Board members.
3. The Supervisory Board shall elect the Chairman from amongst its members.
4. The Supervisory Board shall adopt the internal rules of procedure regulating the functioning of the Board.
5. The Supervisory Board shall have a term of office of three years.
6. The Supervisory Board’s approval shall be required in order to:

- 1) employ or dismiss persons holding executive positions specified in the company's statutes,
  - 2) conclude or accede to a collective employment agreement with representatives of the employees,
  - 3) establish or accede to a company other than the company referred to in Article 26 paragraph 1, and to purchase or transfer shares or interest in such a company,
  - 4) transfer or encumber real estate.
7. (repealed).

#### Article 28a

1. Programme councils of public radio and public television shall consist of 15 members appointed by the National Council, of which 10 members shall represent parliamentary groups. The remaining 5 members shall be appointed from amongst persons with a record of experience and achievement in culture and mass media.
2. Programme councils shall have a term of office of 4 years. The councils' members shall represent public interests and expectations related to the programming activities of the company.
3. The programme councils shall adopt resolutions evaluating the level and quality of current programming as well as of the programme schedule. The Supervisory Board shall be obliged to consider and act upon resolutions concerning programme matters which are adopted by a majority of votes cast in the presence of at least half of the members of the programme council.
4. Members of a programme council shall be entitled to receive daily allowance paid out by the company in an amount determined by the National Council.
5. The Board of Management shall provide to the members of the programme council the organisational and financial resources necessary to evaluate the level and quality of transmitted programme service and its reception and to commission independent audience research as well as studies of the social impact of a programme service.

#### Article 29

1. The State Treasury shall be represented at the general meeting of shareholders by the minister in charge of the State Treasury.
2. Directions and prohibitions imposed by the general meeting of shareholders in respect of the contents of a programme service shall not be binding upon the Board of Management.
3. Amendment of the company's statutes shall require a prior consent of the National Council.

#### Article 30

1. Production and transmission of regional public television programme services shall be the task of regional branches of the company referred to in Article 26 paragraph 2.
2. The company's statutes shall determine the scope of operations and the tasks of the regional branch of the company.

3. The regional branch shall be managed by a director appointed by the Supervisory Board upon a motion of the Board of Management.
4. The Programme Council of the branch shall serve as an advisory and consultative body of the director of the company's regional branch.
- 4a. When appointing Programme Councils of branches broadcasting programme services in the languages of national and ethnic minorities and in regional languages, branch directors shall take into account candidates put forward by social organizations of national and ethnic minorities and communities speaking regional languages.
5. Upon a motion of the Board of Management and after having consulted the directors of the company's regional branches, the National Council shall determine the minimum share of programmes produced by the branches in the transmission time of particular national programme services.
6. (repealed),

#### Article 30a

1. The provisions concerning programme services for viewers abroad shall apply respectively to the programme service transmitted by the "TV Polonia" channel.
2. The Programme Council of TV Polonia shall serve as an advisory and consultative body in respect of the production and transmission of the programme service of the "TV Polonia" channel.

#### Article 31

1. The revenues of the companies referred to in Article 26 paragraphs 2 and 3 shall be the proceeds from:
  - 1) licence fees, default interest for delay in their payment and fines for the use of unregistered radio and television sets, as defined in the provisions of the Licence Fees Act of 21 April 2005, subject to the reservation of Article 8 paragraph 1 thereof,
  - 2) trade in programme rights,
  - 3) advertising and sponsorship,
  - 4) other sources.
2. The revenues of these companies may also include grants from the State budget.
3. Shareholders of the companies referred to in Article 26 paragraphs 2 and 3 shall not be entitled to a share in the companies' profits.

## Article 31a

1. The companies referred to in Article 26 paragraphs 2 and 3 shall be obligated to specify in the documents, referred to in Article 10 of the Accounting Act of 29 September 1994 (official journal "Dz.U." of 2009, No. 152, item 1223, No. 157, item 1241 and No. 165, item 1316; as well as of 2010, No. 47, item 278), the accounting principles, including a company chart of accounts, in a manner ensuring that books of accounts report revenues and related costs separately for the activities, referred to in Article 21 paragraph 1, and other activities as well as methods of allocation of revenues and costs to particular types of activities pursued.
2. The duty, referred to in paragraph 1, shall be without prejudice to the accounting and reporting requirements laid down in separate regulations.
3. The National Council shall set forth, by a regulation, the manner of keeping documents, referred to in paragraph 1, and the manner of preparing the reports, referred to in Article 31b subparagraphs 1-3, with due regard for the need to observe the principles of openness and transparency in the use of funds allocated for the pursuit of tasks referred to in Article 21 paragraph 1 in a manner that would not distort market competition.

## Article 31b

Boards of Management of the companies, referred to in Article 26 paragraphs 2 and 3, shall file with the National Council:

- 1) by 15 February, an annual report on the use of funds, referred to in Article 31 paragraphs 1 and 2, for the previous calendar year,
- 2) by the 25th day of the month following the end of each quarter of a calendar year, quarterly reports on the use of funds allocated in accordance with Article 31 paragraph 1 subparagraph 1 and paragraph 2,
- 3) by the 25th day of the month following the end of each quarter of a calendar year, quarterly reports on costs incurred in connection with the activities referred to in Article 21 paragraph 1, including the specification of their financing sources.
- 4) (repealed).

## Article 31c

Boards of Management of the companies referred to in Article 26 paragraphs 2 and 3 shall prepare and make publicly available, by 15 March for the preceding calendar year, reports on the use of proceeds from licence fees as defined in the Licence Fees Act of 21 April 2005, default interest for delay in their payment and fines for the use of unregistered sets, for carrying out the public mission referred to in Article 21 paragraph 1, with an indication of funds allocated for implementation of individual tasks set forth in Article 21 paragraph 1a.

## Article 32

In order to implement the tasks of public radio and television broadcasting, the companies may, upon consent of the National Council, found new business operators as envisaged by the law.

## **CHAPTER 5**

### **Broadcasting Licences**

#### Article 33

1. Transmission of programme services other than those of public radio and television broadcasters shall require a licence to broadcast.
- 1a. Transmission of television programme services exclusively in information and communications technology systems shall not require a licence, unless the programme service is to be retransmitted by terrestrial diffusion, satellite or cable networks.
2. Broadcasting licences shall be awarded by the Chairman of the National Council.
3. The Chairman of the National Council shall take decisions as regards broadcasting licences on the basis of a resolution of the National Council. The decision on this issue shall be final.

#### Article 34

1. Having sought the opinion of the President of the Office of Electronic Communications to the extent defined in paragraph 1a subparagraph 3, the Chairman of the National Council shall publish in the official journal of the Republic of Poland "Monitor Polski" an announcement concerning availability of broadcasting licences to transmit radio and television programme services by terrestrial diffusion, and determine the time-limit, which shall not be less than 45 days from the date of the announcement, for filing licence applications.
- 1a. The announcement referred to in paragraph 1 shall specify:
  - 1) subject of the procedure,
  - 2) programming conditions of transmission of the programme service, including in particular the type and nature of the programme service,
  - 3) frequencies or channels as well as the maximum radiated power and location of transmitters intended for transmission of the programme service or the area over which the frequencies may be used, unless the transmission of the programme service does not require reservation of frequency;
  - 4) number of broadcasting licences,
  - 5) period for which the broadcasting licence may be awarded,
  - 6) time-limit and location for filing applications.
- 1b. The Chairman of the National Council shall, not later than 14 days from the date of the announcement referred to in paragraph 1, publish information on the announcement in at least two printed national dailies.
- 1c. Exclusively licence applications in connection with the announcement referred to in paragraph 1 shall be examined.
2. The Chairman of the National Council shall publish a list of applicants participating in the licensing procedure. In case of a large number of applications which exceed the existing capacity for the programme service transmission, the said applications shall be examined within the framework of a single procedure.

## Article 35

1. Broadcasting licences may be awarded to natural persons of Polish nationality who permanently reside in the territory of the Republic of Poland, legal persons or partnerships having their seat in the territory of the Republic of Poland.
2. Companies having foreign shareholders may be awarded a broadcasting licence if :
  - 1) the equity stake held by foreign persons in the company or the stake held by foreign persons in the share capital of the company does not exceed 49%,
  - 2) the company's articles of association or statutes contain a clause which provides that:
    - a) persons of Polish nationality who permanently reside in Poland constitute a majority of persons empowered to represent the company or manage its affairs, or of members of the Board of Management of the said company,
    - b) the share of votes exercised by foreign persons and subsidiaries, as defined by the Code of Commercial Partnerships and Companies, of foreign persons may not exceed 49% of votes in a meeting of a limited company's members or the general meeting of shareholders,
    - c) foreign persons may not hold, directly or indirectly, a majority in excess of 49% of votes in a partnership,
    - d) persons of Polish nationality who permanently reside in Poland constitute a majority of members of the Supervisory Board of the said company.
3. The licence may also be awarded to:
  - 1) a foreign person, or
  - 2) a subsidiary, as defined by the Code of Commercial Partnerships and Companies, of a foreign person,
    - having a seat or permanent residence in a Member State of the European Economic Area, with exclusion of restrictions imposed by virtue of paragraph 2.

## Article 35a

1. A broadcaster may file an application for a broadcasting licence for a successive period not later than 12 months before the expiry of the licence held.
2. In case a broadcaster files the application referred to in paragraph 1, the broadcasting licence for a successive period may be refused exclusively if any of the circumstances indicated in Article 38 paragraphs 1 or 2 occurs in respect of the broadcaster.
3. In case a broadcaster files the application referred to in paragraph 1, provisions of Articles 34 and 36 paragraphs 1 and 2 shall not apply to the licensing procedure.

## Article 36

1. In the licensing procedure, the following criteria shall particularly apply:
  - 1) the degree of compliance of the proposed programming activities with the tasks of broadcasting laid down in Article I paragraph I of the Act, taking into account the degree of their implementation by other broadcasters in the area covered by the broadcasting licence,

- 2) the applicant's ability to make the necessary investments and ensure financing of the programme service,
  - 3) the planned share of programmes produced or commissioned by the broadcaster or co-produced by the broadcaster jointly with other broadcasters, in the programme service,
  - 4) the planned share of the programmes referred to in Article 15 paragraphs 1 and 3, in a television programme service, or of works referred to in Article 15 paragraph 2, in a radio or television programme service,
  - 5) past compliance with regulations governing radio communications and the mass media.
2. The broadcasting licence shall not be awarded if transmission of a programme service by the applicant could result in:
- 1) threat to the interests of the national culture, transgression of the standards of public decency conduct and proprieties, danger to national security and defence or threat to security of classified information,
  - 2) achievement, by the applicant, of a dominant position in mass media in the given area.
3. The broadcasting licence shall be awarded for 10 years.

#### Article 37

1. The broadcasting licence shall specify in particular:
- 1) the broadcaster, its seat or place of residence,
  - 2) the nature of activity covered by the broadcasting licence,
  - 3) the method of transmitting the programme service (by analogue terrestrial diffusion, digital terrestrial diffusion in multiplex, satellite, in other telecommunications networks than the networks used for transmission by terrestrial diffusion or by satellite) and:
    - for analogue terrestrial diffusion:
      - a) location of the station,
      - b) height on which the antenna is located,
      - c) maximum radiated power,
      - d) antenna radiation pattern,
      - e) frequency,
      - f) polarisation,
    - for transmission by digital terrestrial diffusion in multiplex:
      - g) multiplex,
      - h) area of transmission,
      - i) signal parameters – IDs,
    - for transmission by satellite:
      - j) name of the satellite used,
      - k) position of the satellite on the orbit,
      - l) frequency,
      - m) location of uplink station.



- for transmission in other telecommunications networks than the networks used for transmission by terrestrial diffusion or by satellite:
    - n) location of the system head station,
    - o) area covered by the telecommunications network.
  - 4) the nature of programme service to be transmitted and the time of its transmission,
  - 5) the date of the initial transmission of the programme service,
  - 6) the date of expiry of the licence,
2. The licence may specify other aspects of the broadcaster's activity, if so required to implement the provisions of the Act.
  3. Within the scope stipulated in paragraph 1 subparagraph 3, the broadcasting licence shall be awarded in agreement with the President of the Office of Electronic Communications who takes position, having regard to the fulfilment of conditions defined in Article 114 paragraph 3 of the Act of 16 July 2004 – “Telecommunications Law”.
  - 3a. Where the transmission of a radio or television programme service requires reservation of a frequency, the President of the Office of Electronic Communications shall forthwith reserve a frequency for the broadcaster who has been awarded a licence, unless the programme service is to be transmitted by a multiplex operator by digital terrestrial diffusion. Any frequency reservations, modifications and withdrawals thereof shall be governed by Articles 114 and 115 of the Act of 16 July 2004 - "Telecommunications Law", and provisions of Article 116 thereof shall not apply.
  4. Following consultation with the President of the Office of Electronic Communications, the National Council shall specify, by a regulation, the essential information to be provided in the application form as well as the detailed procedure for awarding or revoking broadcasting licences.

#### Article 37a

A media service provider shall on an annual basis deliver to the National Council its financial statements prepared in the form specified in the Accounting Act of 29 September 1994.

#### Article 38

1. The broadcasting licence shall be revoked if:
  - 1) a final decision has been issued prohibiting the broadcaster to run business activity covered by the broadcasting licence,
  - 2) the broadcaster blatantly violates the conditions set forth in the Act or broadcasting licence,
  - 3) the activity covered by the broadcasting licence is run in breach of the Act or the terms of the broadcasting licence, and the broadcaster, despite having been requested by the Chairman of the National Council, has not within a prescribed time-limit eliminated the state of facts or the legal status incompliant with the conditions set forth in the broadcasting licence or the Act,
  - 4) despite having been requested by the Chairman of the National Council, the broadcaster has not commenced to transmit the programme service within the time-

limit set in the broadcasting licence, or has permanently ceased to transmit it via all or some transmitters – unless the broadcaster proves that the delay in commencing transmission of the programme service or cessation of programme service transmission resulted from circumstances beyond its control. Permanent cessation of programme service transmission shall be deemed to mean non-transmission of the programme service for the period of three consecutive months.

2. The broadcasting licence may be revoked if:
  - 1) the transmission of the programme service threatens the interests of the national culture, security and defence or if it transgresses the standards of public decency,
  - 2) the broadcaster is declared bankrupt,
  - 3) by transmitting the programme service the broadcaster gains a dominant position in mass media on the given relevant market as defined in regulations on protection of competition and consumers,
  - 4) another person takes over direct or indirect control over the activity of the broadcaster.
3. The Chairman of the National Council shall make public information on opening of the procedure for revoking the broadcasting licence.
4. In case the decision revoking the broadcasting licence becomes final, the Chairman of the National Council shall forthwith announce availability of a licence within the scope covered by the revoked licence.

#### Article 38a

1. The rights under the broadcasting licence shall be inalienable, subject to paragraphs 3-5.
2. The rights referred to in paragraph 1 shall not transfer onto the purchaser of a bankrupt enterprise.
3. In case of a merger, division or other transformations of commercial companies, the rights referred to in paragraph 1 may transfer onto another entity upon consent of the National Council expressed in the form of a resolution. The consent shall be refused if:
  - 1) the broadcaster gains a dominant position in mass media on the given relevant market as defined in regulations on protection of competition and consumers,
  - 2) another person takes over direct or indirect control over the activity of the broadcaster.
- 3a. A natural person may transfer the rights under the licence, subject to the consent of the National Council expressed in a resolution, onto a company of which the person is a shareholder and which meets the conditions referred to in Article 35. Consent may be refused for reasons referred to in Article 36 paragraph 2.
4. The Chairman of the National Council shall issue, on the basis of a resolution of the National Council, a decision granting, or refusing to grant, consent referred to in paragraphs 3 and 3a.
5. Provisions of the Act of 16 July 2004 - "Telecommunications Law" shall apply to the rights arising from frequency reservation.

## Article 39

The broadcasting licence to transmit a television programme service shall also cover the use of the television signal to transmit teletext services.

## Article 39a

1. A broadcasting licence may be awarded for the transmission via cable networks or via satellite of a programme service devoted exclusively to:
  - 1) teleshopping,
  - 2) self-promotion.
2. The provisions of the Act, with the exception of the provisions of Articles 15-15b, shall apply as appropriate to the programme services referred to in paragraph 1.
3. The following shall not apply to the programme services referred to in paragraph 1 subparagraph 1:
  - 1) limitation of the admissible duration of advertising and teleshopping spots per clock hour as laid down in Article 16 paragraph 3,
  - 2) the provisions of Article 16 paragraph 6 and Article 16a.

## Article 39b

1. The following may apply to the National Council to be granted the status of a social broadcaster:
  - 1) an association, within the framework of implementing its statutory objectives,
  - 2) a foundation, within the framework of implementing its statutory objectives,
  - 3) a church or a religious legal person of a given church, or a religious organisation whose status is regulated by an Act of Parliament.
2. Social broadcasters shall be exempt from fees payable for awarding or altering the licence.
3. In case of breach by a social broadcaster of requirements specified in Article 4 paragraph 10, the licensing authority shall issue a decision revoking its status as a social broadcaster and shall impose in the said decision the obligation to pay the fees referred to in paragraph 2, along with legal interest charged as from the date of awarding or altering the broadcasting licence.

## Article 40

1. A fee shall be charged for awarding a broadcasting licence for the transmission of a radio or television programme service, irrespective of the annual fees for the use of a frequency, provided for in the Act of July 16, 2004 – “Telecommunications Law” (official journal “Dz.U.” No 171, item 1800, as further amended). Awarding of a broadcasting licence shall also mean the change thereof.
2. The fee for granting a licence shall not be higher than:

- 1) in case of transmitting a radio programme service by means of analogue terrestrial diffusion – PLN 12 317 570;
  - 2) in case of transmitting a television programme service by means of analogue terrestrial diffusion – PLN 25 890 000;
  - 3) in case of transmitting a radio programme service by means of digital terrestrial diffusion in multiplex – PLN 6 158 785;
  - 4) in case of transmitting a television programme service by means of digital terrestrial diffusion in multiplex – PLN 25 890 000.
3. The fee for granting a licence shall be equal to:
- 1) in case of transmitting a radio programme service by means of satellite broadcast – PLN 500;
  - 2) in case of transmitting a television programme service by means of satellite broadcast – PLN 10 000;
  - 3) in case of transmitting a radio programme service in telecommunications networks other than those used for terrestrial diffusion broadcasting or satellite broadcasts – PLN 500;
  - 4) in case of transmitting a television programme service in telecommunications networks other than those used for terrestrial diffusion broadcasting or satellite broadcasts – PLN 2000.
4. If the radio or television programme service is transmitted by different means, the licence fee shall be fixed as the sum total of the amounts due for the respective means of transmission.
5. In the case of a licence fee for a simultaneous transmission of a radio programme service by means of analogue terrestrial diffusion and digital terrestrial diffusion in multiplex, the fee is equal to a fee for granting a licence to transmit a radio programme service by means of digital terrestrial diffusion in multiplex.
6. Acting in agreement with the minister in charge of public finance sector, the National Council shall determine, by a regulation, the amount of the fee for granting the licence, not higher than the fee referred to in paragraph 2, and the method of calculating the said fee taking into account the following factors:
- 1) time of advertisements broadcasts;
  - 2) for programme services referred to in paragraph 2.1:
    - a) number of inhabitants covered by the programme service,
    - b) radio wave reach,
    - c) number of inhabitants in cities covered by the programme service,
  - 3) for programme services referred to in paragraph 2.2, number of inhabitants covered by the programme service;
  - 4) for programme services referred to in paragraph 2.3:
    - a) in case of granting a licence for coverage less than the range of the Polish national multiplex signal, which is deemed to cover the territory of the whole country - the number of inhabitants covered by the programme service,
    - b) the standard of the terrestrial digital radio service,
    - c) in the case of change of the licence for transmission of the programme service by way of terrestrial diffusion consisting in granting the right to transmit a digital programme service, the number of inhabitants covered by the analogue programme service;
  - 5) for programme services referred to in paragraph 2.4:
    - a) in case of granting a licence for coverage less than the range of the Polish

- national multiplex signal, which is deemed to cover the territory of the whole country - the number of inhabitants covered by the programme service,
- b) the standard of the terrestrial digital television service,
  - c) in the case of change of the licence for transmission of the programme service by way of terrestrial diffusion consisting in granting the right to transmit a digital programme service, the number of inhabitants covered by the analogue programme service;
- 6) proportionally until the expiry of the licence in the case of change of the licence, which affects the value of the broadcasting fee.
7. The National Broadcasting Council shall determine, by a regulation, the technical methods of determining the coverage of the programme service on the territory where the programme service is transmitted by means of terrestrial diffusion, taking into account the advancement of science and technology in this field.
8. The value of the fees referred to in subparagraphs 2 and 3 and the fees referred to in regulations issued on the basis of subsection 6 shall be indexed every year in line with the average annual value of the consumption goods and services price index for the past calendar year, announced by the President of the Central Statistical Office. If the change in the said index is negative, the value of the broadcasting fees shall not be changed.
9. By October 31 of each year at the latest, the Chairman of the National Broadcasting Council shall announce in the Official Journal "Monitor Polski" of the Republic of Poland the value of fees for the next year, referred to in subparagraphs 2 and 3, and in regulations issued on the basis of subparagraph 6, with due regard for subsection 8 thereof, rounding them up to the next whole Polish Zloty.
10. The broadcasting fee shall be paid as a single payment or in equal annual instalments payable during successive years during the term of the licence. The manner of payment of the licence shall be stated, based on the application, in the decision on granting the licence.
11. The first fee or the first instalment of the fee referred to in subparagraph 10 shall be paid within a time limit of 60 days from the date of receipt of the decision on granting the licence. In case of splitting the payment into instalments, the decision on granting the licence shall determine the payment extension fee based on the Act of 29 August 1997 – the Tax Ordinance (official journal "Dz.U." of 2012, item 749 and 1101).
12. In case of withdrawal or annulment of the licence, the entire fee referred to in subparagraph 1, shall become due and payable to the extent it has not been paid and shall be paid within 60 days from the date of receipt of the decision on withdrawal or annulment of the licence.
13. The licence fees shall constitute the income of the State budget.

#### Article 40a

1. Purchase or acquisition of shares or interest, or acquisition of rights in shares or interest in a company holding a broadcasting licence to transmit a programme service, by a foreign person, shall require a consent of the Chairman of the National Council; the provisions of Article 33 paragraph 3, Article 35 paragraph 2, Article 36 paragraph 2 and Article 38, shall apply thereto as appropriate.

2. The actions referred to in paragraph 1, performed by an entity controlled by a foreign person shall be deemed performed by the controlling entity, as defined by the Code of Commercial Partnerships and Companies.
3. The Chairman of the National Council shall grant and withdraw the consent referred to in paragraph 1, on the basis of a resolution of the National Council.
4. The actions, referred to in paragraph 1, performed without the consent shall be null and void.
5. The provisions of paragraphs 1 - 3 shall not apply to foreign persons or subsidiaries, as defined by the Code of Commercial Partnerships and Companies, to foreign persons having a seat or permanent residence in a Member State of the European Economic Area.

#### Article 40b

Provisions of Chapter 5 of the Freedom of Business Activity Act of 2 July 2004 shall apply to the control of business activity of business operators, referred to in Article 33.

### **CHAPTER 6**

#### **Transmission of Certain Television Programme Services and Retransmission of Programme Services**

#### Article 41

1. The following programme services shall be subject to registration:
  - 1) retransmitted programme services,
  - 2) television programme services transmitted exclusively in an information and communications technology system.
2. The obligation set out in paragraph 1 subparagraph 1 shall not apply to the programme services referred to in Article 43 paragraph 1.
3. The register shall be kept by the Chairman of the National Council.
4. The Code of Administrative Procedure shall apply to the registration procedure, unless otherwise provided for in the Act.
5. The register shall be open to the public.

#### Article 42

1. An entity applying for registration of a programme service in the register of television programme services transmitted in the ICT networks and retransmitted programme services shall pay a fee of PLN 100 per each programme service.
2. The fee referred to in subparagraph 1 shall constitute the income of the State budget.
3. Article 40 subparagraphs 8 and 9 shall apply to indexation and announcement of the value of the fee.

## Article 43

1. An operator that retransmits a programme service, with the exception of an entity that retransmits a programme service by digital terrestrial diffusion in multiplex, shall retransmit the programme services “Telewizja Polska I”, “Telewizja Polska II” and one regional television programme service transmitted by Telewizja Polska S.A. as well as the programme services transmitted on the date of entry into force of the Act of 30 June 2011 on the Launch of Digital Terrestrial Television (official journal “Dz.U.” No. 153, item 903) on the basis of the licence to transmit these programme services by analogue terrestrial diffusion by Telewizja Polsat S.A., TVN S.A., Polskie Media S.A., Telewizja Puls Sp. z o.o. In case of an operator that retransmits programme services in other telecommunications networks than the networks used for transmission by terrestrial diffusion or by satellite, the obligation to retransmit a regional television programme service shall apply to a regional television programme service relevant for a given area.
2. A broadcaster that transmits the programme service referred to in paragraph 1 may not refuse an operator that retransmits the programme service in the telecommunications network referred to in paragraph 1 the consent for the retransmission of this programme service, and may not make such consent conditional upon payment of any remuneration, including in particular any fee for the award of a licence for the use of the broadcast.
3. The Chairman of the National Council shall assess the fulfilment of the obligation referred to in paragraph 1 not less frequently than once every two years, being guided by social interest with regard to provision of information, ensuring access to culture and art, facilitating access to learning, sport and scientific achievements as well as dissemination of civil education.
4. The Chairman of the National Council shall submit the results of the assessment to the minister in charge of culture and national heritage who shall take actions necessary to ensure that the obligations referred to in paragraph 1 are proportionate and transparent as well as imposed solely when required for purposes of attainment of the objectives set out in paragraph 3.

## Article 43a

1. A broadcaster that transmits the programme service referred to in Article 43 paragraph 1 shall make this programme accessible free of charge on an application of the operator retransmitting the programme service, within 14 days from submission of the application.
2. If the broadcaster fails to fulfil the obligation to make the programme service accessible free of charge, the Chairman of the National Council, acting on an application of the operator retransmitting the programme service, shall request the broadcaster to make the programme service accessible to this operator, within 14 days from service of the request.
3. The operator retransmitting the programme service shall:
  - 1) retransmit and offer the programme service made accessible to it free of charge,
  - 2) inform in its offering that the programme service is intended for general and free of charge reception, also by digital terrestrial diffusion.

#### Article 44

1. The registering authority shall register a programme service referred to in Article 41 paragraph 1 subparagraph 1 on the basis of a notification.
2. An operator retransmitting a programme service shall notify a programme service for registration not later than one month prior to the commencement of its retransmission.
3. The notification referred to in paragraph 1 shall:
  - 1) specify the applicant, its seat or place of residence, mailing address, including electronic mail address, that ensures effective and fast contact,
  - 2) specify the programme service intended for retransmission and its broadcaster,
  - 3) define the area over which the programme service is to be retransmitted.
4. A cable network operator shall enclose with the notification:
  - 1) documents stating that the retransmission of the programme service will not infringe upon the rights of the programme service broadcaster,
  - 2) documents stating that the programme service is transmitted, and in case of a programme service provided to the operator by the broadcaster – a contract with the programme service broadcaster.
5. (repealed).
6. The entry in the register shall in particular contain the particulars referred to in paragraph 3, with the exception of address of residence, if different from the address of the seat.
7. The retransmission of the programme service may commence if the registering authority has not refused the registration within one month from the date of notification, on condition of payment of the fee referred to in Article 42 paragraph 1 by the operator.
8. The registering authority may request the operator retransmitting the programme service to complete the notification within 14 days from receipt of the request. If the registering authority has requested the operator to complete the notification, the time-limit referred to in paragraph 7 shall run from the day of receipt of a completed notification.
9. The operator retransmitting a programme service shall notify the registering authority, within 14 days, of any changes in the state of facts or the legal status subject to registration, that arose after the act of registration. The provisions governing the registration shall apply accordingly to notification of changes.

#### Article 44a

1. The registering authority shall register a programme service referred to in Article 41 paragraph 1 subparagraph 2 on the basis of a notification.
2. A broadcaster of a television programme service transmitted exclusively in an information and communications technology system shall notify a programme service for the purpose of its registration not later than one month prior to the commencement of its transmission.
3. The notification referred to in paragraph 1 shall:
  - 1) specify the broadcaster, its seat or place of residence, mailing address, including electronic mail address, that ensures effective and fast contact,
  - 2) contain basic information on the programme service intended for transmission,



- 3) specify the manner of transmission of the programme service.
4. The entry in the register shall in particular contain the particulars referred to in paragraph 3, with the exception of address of residence, if different from the address of the seat.
5. The transmission of the programme service may commence if the registering authority has not refused the registration within one month from the date of notification.
6. The registering authority may request the broadcaster to complete the notification within 14 days from receipt of the request. If the registering authority has requested the broadcaster to complete the notification, the time-limit referred to in paragraph 5 shall run from the day of receipt of a completed notification.
7. The broadcaster shall notify the registering authority, within 14 days, of any changes in the state of facts or the legal status subject to registration, that arose after the act of registration. The provisions governing the registration shall apply accordingly to notification of changes.

#### Article 45

1. The registering authority shall remove the programme service referred to in Article 41 paragraph 1 subparagraph 2 from the register if contents in serious breach of provisions of Article 18 paragraphs 1, 4 and 5 were inserted at least twice in the said programme service during the last 12 months.
2. The registering authority shall refuse to register the programme service referred to in Article 41 paragraph 1 subparagraph 1 if contents in serious breach of provisions of Article 18 paragraphs 1, 4 and 5 were inserted at least twice in the said programme service during the last 12 months.
3. The registering authority shall remove a retransmitted programme service from the register, if:
  - 1) contents in serious breach of provisions of Article 18 paragraphs 1, 4 and 5 were inserted at least twice in the said programme service during the last 12 months,
  - 2) the operator, without the broadcaster's approval, introduces changes to the programme service or does not retransmit it complete or simultaneously,
  - 3) (repealed).
4. The refusal to register or the removal from the register, referred to in paragraphs 1-3, shall be made in the form of an administrative decision; the provisions of Article 33 paragraph 3 shall apply accordingly to such a decision.

#### Article 46

The National Council shall determine, by a regulation, a detailed manner and procedure for keeping the register of programme services transmitted exclusively in an information and communications technology system and of retransmitted programme services, including:

- 1) model form of the register,
  - 2) model form of notification for registration
- with due regard to a possibility to keep the register and file applications in the information and communications technology system, necessity to ensure transparency and

completeness of information recorded in the register and efficiency of the registering procedure, as well as prevention of impediments affecting media service providers' activities.

#### Article 46a

1. If a broadcaster of a programme service referred to in Article 45 paragraph 3 subparagraph 1 is established in another Member State of the European Union, the National Council shall notify this broadcaster and the European Commission of identified infringements and of the intention to remove the retransmitted programme service from the register. The programme service shall be removed from the register if, following consultations held by the National Council with the State in which the broadcaster is established and with the European Commission, the infringements are not discontinued within two months from the notification.
2. The measures referred to in paragraph 1 shall be objectively necessary, applied in a non-discriminatory manner and proportionate to the objectives which they pursue, and may be taken only if the following conditions are met:
  - 1) the National Council has notified the European Commission and the Member State in which the broadcaster has its seat of its intention to take such measures while substantiating the grounds on which it bases its assessment; and
  - 2) the Commission has decided that the measures are compatible with Union law.

#### Article 46b

1. If a programme service of a broadcaster established in another Member State of the European Union is wholly or mostly directed towards the territory of the Republic of Poland, the Chairman of the National Council may request the State in which the broadcaster of this programme service is established to apply a suitable solution, including particularly a solution that ensures respect of the rules of protection of public interest, set out in the Act and separate provisions, in this programme service.
2. If a suitable solution is not applied within two months following the request referred to in paragraph 1 and the broadcaster of the programme service concerned is established in another Member State of the European Union in order to circumvent the provisions of law applicable in the Republic of Poland, the Chairman of the National Council may notify the European Commission and the State in which the broadcaster is established of its intention to refuse registration of the programme service or to remove the programme service from the register, or of its intention to apply another necessary non-discriminating and proportionate measure provided for in the law. The notification shall be substantiated.
3. When assessing whether the programme service referred to in paragraph 1 is wholly or mostly directed towards the territory of the Republic of Poland, the National Council may refer to indicators such as the origin of the television advertising or subscription revenues, the main language of the service or the existence of programmes or commercial communications targeted specifically at the public in the Member State where they are received.
4. The Chairman of the National Council may issue a decision on refusal to register or on removal from the register of the programme service referred to in paragraphs 1 and 2 or on another measure, exclusively unless the European Commission takes, within

three months following the notification referred to in paragraph 2, a decision that it would be contrary to the European Union law.

5. The Chairman of the National Council shall make the request referred to in paragraph 1 and the notification referred to in paragraph 2 on the basis of a resolution of the National Council.

#### Article 47

(repealed).

### **CHAPTER 6a** **On-demand audiovisual media service**

#### Article 47a

The provider of on-demand audiovisual media services shall individually create the catalogue of programmes and shall be liable for the content thereof, without prejudice to regulations on liability of other persons for the content of individual programmes, advertisements or other broadcasts.

#### Article 47b

An obligation to provide or a ban on providing a certain programme or broadcast to the general public may be imposed upon the provider of the on-demand audiovisual media service exclusively by virtue of the Act.

#### Article 47c

1. The provider of on-demand audiovisual media services shall provide users with an easy, direct and permanent access to personal information enabling the identification of the service and the provider of on-demand audiovisual media service, in particular the following information:
  - 1) name of the on-demand audiovisual media service,
  - 2) last name, name or business name of the service provider,
  - 3) the address of its registered office,
  - 4) contact information, including the postal address, e-mail address and website.
2. The provider of on-demand audiovisual media services shall name the National Broadcasting Council as the regulator competent in matters relating to provision of on-demand audiovisual services.
3. The National Broadcasting Council may determine, by regulation, the presentation by the provider of on-demand audiovisual media services of the information enabling the identification of the service and the provider of this service, taking into account the integrity of broadcasts, the manner of provision of the service to the general public, the impact on the interests of users and seeking not to encumber the providers with excessive constraints and costs associated with the provision of the information.

#### Article 47d

Product placement in programmes and sponsorship of programmes made available as part of on-demand audiovisual media services may not affect the autonomy and editorial independence of the provider of the on-demand audiovisual media service, in particular by affecting the content or place of programmes in the catalogue, and shall not release the provider from liability for the content of programmes.

#### Article 47e

1. It is forbidden to provide to the general public on-demand audiovisual media services that contain, as part of the catalogue of services, programmes or other broadcasts referred to in Article 18 paragraph 4 without applying technical security measures or other appropriate measures to prevent minors from the reception thereof.
2. Taking into account the degree of harmfulness of the programme or other broadcast to minors in different age groups, the provider of the on-demand audiovisual media service shall appropriately qualify and mark programmes and other broadcasts in such a way that the user can easily see the mark, both at the time of selecting the programme and throughout its duration.
3. In consultation with the minister responsible for information technology the National Broadcasting Council shall determine, by regulation, the detailed conditions to be met by the technical security measures or other appropriate measures aimed at preventing minors from the reception of the programmes or other broadcasts, referred to in Article 18 paragraph 4, driven by the need to ensure effective protection of minors against content which is harmful for them, with due consideration for technical feasibility and the degree of harmfulness of the programme or other broadcasts to minors in different age groups as well as the specific features of on-demand audiovisual media services.
4. The National Broadcasting Council shall determine, by regulation, the characteristic features and the specific conditions of qualifying and marking of programmes and other broadcasts as well as appropriate graphic symbols, taking into account the degree of harmfulness of the programme to minors in different age groups as well as the specific features of on-demand audiovisual media services.

#### Article 47f

1. Providers of on-demand audiovisual media services shall promote European works, including works produced originally in the Polish language, in particular by:
  - 1) proper identification of origin of programmes available in the catalogue of programmes as well as providing the option to search for European works, including works produced originally in the Polish language, or
  - 2) placement of information and materials promoting European works, including works produced originally in the Polish language.
2. Providers of on-demand audiovisual media services shall allocate at least 20% of the content in their catalogue for European works, including

works produced originally in the Polish language, and shall provide adequate visibility to such programmes in the catalogue.

3. The percentage referred to in paragraph 2, shall be calculated based on the total duration of the programmes multiplied by the total broadcasting time of the programmes in the catalogue during a given calendar quarter.
4. Paragraph 2 shall not apply to the catalogues, in which only audiovisual programs other than European works are provided to the general public.

#### Article 47g

Providers of on-demand audiovisual media services shall aim at gradually ensuring the availability of programmes provided for disabled persons with sight dysfunction and hearing dysfunction through the introduction of appropriate tools such as audio-description, subtitles and translation into sign language.

#### Article 47h

Programmes provided as part of on-demand audiovisual media services cannot contain contents inciting to hatred or discriminating on grounds of race, disability, sex, religion or nationality.

#### Article 47i

Providers of on-demand audiovisual media services shall retain copies of programmes provided to the general public for a period of not less than 28 days from the date of their removal from the catalogue and to present them to the Chairman of the National Broadcasting Council upon receipt of the request referred to in Article 10 paragraph 2.

#### Article 47j

1. Providers of on-demand audiovisual media services shall submit annual reports to the National Broadcasting Council on compliance with the duties referred to in Article 47e and Article 47f.
2. The said report shall contain:
  - 1) data of the provider as defined in the Articles 47c paragraph 1 together with the description of the manner of providing the audiovisual media service to the general public;
  - 2) the description of the types of technical security measures or other appropriate measures to prevent minors from the reception thereof, applied by the provider;
  - 3) the description of the manner of promoting European works, including works originally produced in the Polish language, applied by the provider, including the share of these programmes in the catalogue in terms of volume and time.
3. The report shall be submitted by 31 March for the previous year.

#### Article 47k

The provisions of Article 16 paragraph 1, Article 16b paragraphs 1-3a, Article 16c, Article 17 paragraphs 1-2, 4, 5, 6a and 7, Article 17a paragraphs 1-3, 5 and 6 as well as regulations issued based on Article 16b paragraph 3b, Article 17 paragraph 8, except for the provisions relating to registration of sponsored programmes or other broadcasts, as well as regulations issued pursuant to Article 17a paragraph 9 on the special conditions of marking of programmes with product placement with a special graphic mark by the broadcaster shall apply to on-demand audiovisual media services.

## **CHAPTER 7**

(repealed).

Article 48

(repealed).

Article 49

(repealed).

Article 50

(repealed).

Article 51

(repealed).

## **CHAPTER 8**

### **Liability under the Law**

Article 52

1. Transmission of a radio or television programme service without a licence shall be:
  - punishable by a fine, restriction of liberty or imprisonment of up to 2 years.
2. Retransmission of a radio or television programme service without registration shall be:
  - punishable by a fine, restriction of liberty or imprisonment of up to 1 year.

Article 53

1. If a broadcaster fails to comply with the obligations laid down in Article 14a paragraphs 1 and 2, Article 15 paragraphs 1, 2 and 3, Article 15a paragraph 1, Article 16 paragraphs 1-6, Article 16a, Article 16b paragraphs 1-3, Article 16c, Article 17 paragraphs 1-7, Article 17a paragraphs 1-7, Article 18 paragraphs 1-5b, Article 18a paragraph 1, Article 20 paragraph 1, Article 20b paragraphs 1 and 6, Article 20c paragraphs 1-5, Article 43 paragraph 2, Article 43a paragraph 1 or under the provisions issued pursuant to Article 14a paragraph 3, Article 15 paragraph 4, Article 15a paragraphs 2 and 3, Article 16 paragraph 7, Article 16b paragraph 3b, Article 17 paragraph 8, Article 17a paragraph 9, Article 18 paragraph 6 and Article 18a paragraph 2 or fails to comply with the notice referred to in Article 43 paragraph 2, the Chairman of the National Council shall issue a decision imposing a fine upon such a broadcaster in the amount of up to 50% of the annual fee for the right to use the frequency allocated

for providing the programme service, while broadcasters who fail to pay for the right to use the frequency shall be liable to a fine of up to 10% of the revenues generated by the broadcaster in the preceding tax year with due consideration for the degree of harmfulness of such breach, the former operations of the broadcaster and its financial capacity.

2. The Chairman of the National Council may impose the fine referred to in paragraph 1 also by virtue of a decision issued under Article 10 paragraph 4.
3. The fine shall be paid from net income after tax or from another surplus of revenues over expenditure, after tax.
4. The fine may not be imposed if over one year elapsed from the breach of the obligations referred to in paragraph 1.

#### Article 53a

1. If a media service provider transmits a television programme service in an information and communications technology system without registration, the Chairman of the National Council shall issue a decision imposing upon the broadcaster a fine amounting up to 10% of the broadcaster's revenue generated in the preceding tax year. Provisions of Article 53 paragraphs 3 and 4 shall apply accordingly.
2. In the first year of pursued activity the fine referred to in paragraph 1 shall not exceed ten-times the average monthly remuneration in the enterprises sector in the quarter preceding the issue of the decision imposing the fine, including payments from profit, announced by the President of the Central Statistical Office in the Official Journal "Monitor Polski" of the Republic of Poland.

#### Article 53b

1. If an operator that retransmits a programme service breaches the obligation referred to in Article 43 paragraph 1 or Article 43a paragraph 3, the Chairman of the National Council shall issue decision imposing a fine of up to 10% of the revenue generated by this operator in the preceding tax year, with consideration given to the scope and degree of harm caused by the breach, the operator's actions to date and its financial capabilities.
2. In case the operator referred to in paragraph 1 has operated for less than one calendar year, the assessment basis for the fine shall be PLN 500 thousand.
3. The Chairman of the National Council may request the operator referred to in paragraph 1 to provide explanations, submit documents, in particular the annual financial statements for the preceding tax year, with regard to the fulfilment of the obligation referred to in Article 43 paragraph 1 or Article 43a paragraph 3.

#### Article 53c

1. If the provider of the on-demand audiovisual media services fails to comply with Article 16 paragraph 1, Article 16b paragraph 1-3a, Article 16c, Article 17 paragraphs 1-2, 4, 5, 6a and 7, Article 17a paragraphs 1-3, 5 and 6, Article 47a, Article 47b, Article 47c paragraphs 1 and 2, Article 47d, Article 47e paragraphs 1 and 2, Article 47f, Article 47h and Article 47i or provisions issued under Article 16b paragraph 3b,

Article 17 paragraph 8, except for the provisions relating to registration of sponsored programmes or other broadcasts, Article 17a paragraph 9 as regards special conditions of marking of programmes with product placement with a special graphic mark by the broadcaster, as well as provisions issued on the basis of Article 47c paragraph 3 and Article 47e paragraphs 3 and 4 and fails to discontinue the said violations within 14 days from the receipt of the notice referred to in Article 10 paragraph 3, the Chairman of the National Broadcasting Council shall issue a decision imposing a fine upon such a provider in the amount of up to twenty times the average monthly remuneration in the corporate sector, including profit distributions, in the quarter preceding the issue of the decision on the said fine, announced by the President of the Central Statistical Office in the Official Journal of the Republic of Poland "Monitor Polski".

2. When determining the value of the imposed fine, the Chairman of the National Broadcasting Council shall take into account the degree and extent of the harmfulness of the breach and the former operations of the provider of the on-demand audiovisual media services.
3. The fine may be imposed again after the lapse of 30 days from the expiry of the deadline for the payment of the previous fine, if the provider of the on-demand audiovisual media services failed to discontinue the violations.
4. The decision on the fine may not be issued, if two years elapsed from the breach of the obligations referred to in paragraph 1.

#### Article 53d

1. In case of failure to deliver the report within a time limit referred to in Article 47j paragraph 3, following an ineffective notice referred to in Article 10 paragraph 2 to file the report within a time limit of 14 days from the date of receipt of the said notice, the Chairman of the National Broadcasting Council may issue a decision imposing a fine upon the person who directs the activity of the provider of the on-demand audiovisual media service in the amount not exceeding PLN 1,000.
2. The fine may be imposed again after the lapse of 30 days from the expiry of the deadline for the payment of the previous fine in case of continued non-compliance with the obligation to deliver the report by the provider of the on-demand audiovisual media services.
3. The decision on the fine may not be issued if a year has elapsed from the time limit referred to in Article 47j paragraph 3.

#### Article 54

1. If a person who directs the media service provider's activity fails to carry out the decisions issued under Article 10 paragraph 4, the Chairman of the National Council may, by a decision, impose a fine upon such a person; however, such fine shall not exceed the person's six-month remuneration.
2. The same fine may be imposed upon a person who directs the media service provider's activity for failure to provide information or for providing inaccurate information requested by the Chairman of the National Council under Article 10 paragraph 2.
3. A decision imposing a fine may not be issued if two years have elapsed from the date of issuing the decision referred to in paragraph 1.



## Article 55

The fines referred to in Articles 53 and 54 shall be payable to the state budget.

## Article 56

1. Decisions of the Chairman of the National Council issued under Article 10 paragraph 4 and Articles 53 and 54 may be appealed against to the Regional Court in Warsaw – Commercial Court.
2. The provisions of the Code of Civil Procedure relating to counteracting monopolistic practices shall apply as appropriate to the procedure in cases involving appeals against the decisions referred to in paragraph 1.
3. In case a decision of the Chairman of the National Council is appealed against to the court, the appealing person shall not have recourse to remedies for the purpose of appealing against the said decision provided for in the Code of Administrative Procedure, particularly as regards resumption of the procedure, reversal, change or declaration of invalidity of the decision.

## **CHAPTER 9**

### **Amendments to the Applicable Legislation, Transitional and Final Provisions**

## Article 57

In Article I paragraph I subparagraph 2 of the Act of 30 December 1950, on the Publication of the Official Journal “Dziennik Ustaw” of the Republic of Poland and the Official Journal “Monitor Polski” of the Republic of Poland (official journal “Dz.U.”, No. 58, item 524; 1991, No. 94, item 420), the coma after the words “and ministers” shall be deleted and the following phrase shall be added thereafter “and the National Broadcasting Council”.

## Article 58

Subparagraph 7 shall be added in Article I paragraph 2 of the Tribunal of State Act of 26 March 1982, (official journal “Dz.U.”, No. 11, item 84; of 1993, No. 5, item 22), following replacement of the period at the end of the paragraph with a coma:

“7) members of the National Broadcasting Council.”

## Article 59

Article 48 of the Act of 17 May 1989 on Relations between the State and the Roman Catholic Church in the Republic of Poland (official journal “Dz.U.”, No. 29, item 154; of 1990, No. 51, item 297, No. 55, item 321, No. 86, item 504; of 1991, No. 95, item 425 and No. 107, item 459) shall be amended as follows: (amendments omitted).

## Article 60

Article 25 paragraph 4 of the Act of 17 May 1989 on Guarantees of Freedom of Conscience and Religion (official journal "Dz.U.", No. 29, item 155; of 1990, No. 51, item 297, No. 55, item 321, No. 86, item 504; of 1991, No. 95, item 425) shall be replaced by the following:

"4. Churches and other religious organisations shall be entitled to broadcast religious, moral, social and cultural programme services on radio and television in accordance with agreements executed between the authorities of the particular Church or religious organisation and the public radio and television broadcasting organisations".

## Article 61

The Act of 23 November 1990, on Communications (official journal "Dz.U.", No. 86, item 504; of 1991 No. 69, item 293, No. 105, item 451) shall be amended as follows: (amendments omitted).

## Article 62

Article 36 paragraph 2 of the Act of 4 July 1991, on Relations between the State and the Polish Autocephalic Orthodox Church (official journal "Dz.U.", No. 66, item 287, No. 95, item 425) shall be replaced by the following:

"2. The manner of exercising entitlements referred to in paragraph 1 shall be regulated by agreements between the Sacred Synod of Bishops and the public radio and television broadcasting organisations".

## Article 63

1. The Committee for Radio and Television "Polish Radio and Television" (hereinafter referred to as the "the Committee") is hereby dissolved. The President of the Committee shall direct the activities of the state organisational unit "Polish Radio and Television" until registration of the companies referred to in Article 26 paragraphs 2 and 3.
2. The tasks of the Committee and its President defined in the existing legislation with regard to the production and transmission of radio and television programme services shall be transferred to public radio and television broadcasting organisations, to be implemented in accordance with their tasks defined in their statutes and by the applicable legislation.
3. The tasks of the Committee and its President defined in the existing legislation and relating to state administration shall be transferred to the National Council.
4. The functions of the founding body of state-owned enterprises and supervisory functions over research and development units subordinate to the Committee shall be transferred to the Chairman of the National Council.
5. Permits to use telecommunications equipment for broadcasting radio and television programme services shall expire on the day on which a broadcaster who has been assigned the frequency heretofore used for broadcasting a programme service

commences to operate in the same area, however, not later than within a year from the date the Act comes into force.

6. The provision of paragraph 5 shall not apply to permits issued under the act referred to in Article 59.
7. The provision of Article 52 shall not apply to broadcasters holding permits referred to in paragraph 5 and broadcasters holding permits issued under the act referred to in Article 59.
8. Entities which retransmit programme services in cable networks shall adjust their activities in order to comply with the provisions of Chapter 6 within 6 months from the date the Act comes into force.

#### Article 64

1. The minister in charge of the State Treasury shall establish:
  - 1) the company referred to in Article 26 paragraph 2 having its seat in Warsaw and regional branches in Bydgoszcz, Gdańsk, Katowice, Kraków, Lublin, Łódź, Poznań, Rzeszów, Szczecin, Warsaw and Wrocław,
  - 2) the company referred to in Article 26 paragraph 3 subparagraph I having its seat in Warsaw and the companies referred to in Article 26 paragraph 3 subparagraph 2 having their seats in Białystok, Bydgoszcz, Gdańsk, Katowice, Kielce, Kraków, Koszalin, Lublin, Łódź, Opole, Olsztyn, Poznań, Rzeszów, Szczecin, Warsaw, Wrocław and Zielona Góra.
2. The minister in charge of the State Treasury may establish regional radio companies having their seat in towns other than those referred to in paragraph 1 subparagraph 2.
3. The minister in charge of the State Treasury shall agree the statutes of the companies referred to in paragraphs 1 and 2 with the National Council. The statutes of the company referred to in Article 26 paragraph 2 may provide for regional branches in locations other than those referred to in paragraph 1 subparagraph 1.
4. The first Boards of Management of the companies referred to in paragraphs 1 and 2 shall be appointed by the National Council.

#### Article 65

1. The minister in charge of the State Treasury shall transfer the property remaining after the liquidation of the state organisational unit "Polskie Radio i Telewizja"<sup>3</sup> hereinafter referred to as PRTV, to the companies referred to in Article 64 paragraph 1.
2. Within 1 month from the date on which this Act comes into force, the Council of Ministers shall determine, by a regulation, the detailed procedure of taking an inventory of the property referred to in paragraph 1, its division and transfer as well as settlement of any disputes in this regard.
3. Actions executed with a view to implement Article 64 paragraphs 1 and 2 shall be exempt from court fees and stamp duties; regulations governing the transformation of state enterprises into companies shall apply accordingly to notary's fees for establishing the said companies.

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<sup>3</sup> TRANSLATOR'S NOTE: „Polish Radio & Television”.

## Article 66

1. Land owned by the State Treasury and administered by PRTV on the date of entry of this Act into force shall, on the date of registration of the companies, be transferred to them to be held under perpetual usufruct by operation of the law. Provisions of Article 41 paragraph 1 of the Act of 29 April 1985 on Land Management and Expropriation of Real Property (official journal "Dz.U." of 1991, No. 30, item 127, No. 103, item 446 and No. 107, item 464) shall not apply in respect of the first fee for perpetual usufruct.
2. Buildings and other facilities as well as premises located on land owned by the State Treasury and administered by PRTV on the date the Act comes into force shall, on the date of registration of the companies, become their property by operation of the law. Acquisition of ownership rights shall be free of all charge.
3. Acquisition of the rights to perpetual usufruct of land referred to in paragraph 1 and the ownership title to the buildings, other facilities and premises referred to in paragraph 2, shall be effected by virtue of a decision of the Voivod. The said decision shall also determine the conditions of perpetual usufruct of land, in accordance with the provisions of Article 236 of the Polish Civil Code.

## Article 67

1. Employees of PRTV shall, by operation of the law, become employees of the respective company, subject to the provision of paragraph 2.
2. Employment relationship of executive officers, determined by the National Council, shall cease, by operation of the law, on the date of registration of the companies in the commercial register. Such cessation of employment relationship shall be equivalent, in terms of its legal consequences, to termination of employment relationship as a result of termination of the employment contract by the employer. These employees may be employed in the company on terms agreed upon by the parties.
3. The companies shall be responsible for liabilities arising out of employment relationship which arose prior to the companies' entry in the commercial register.

## Article 68

1. The rights and liabilities of the Committee and PRTV arising out of administrative decisions shall, by operation of the law, be transferred to the companies.
2. The Minister of Communications acting in agreement with the Chairman of the National Council shall assign to the companies, referred to in Article 26 paragraphs 2 and 3, the frequencies used by PRTV on the date of entry of the present Act into force for the transmission of radio and television programme services.
3. The right to use the frequencies referred to in paragraph 2 vested in other entities on the basis of former provisions shall expire on the date of assignment of these frequencies to the companies.
4. The frequencies referred to in paragraph 2 shall be assigned free of charge.

#### Article 69

1. The bodies empowered to appoint members of the National Council for the first term of office after the entry of the present Act into force shall specify which members have been appointed for a term of two and of four years.
2. The first meeting of the National Council shall be convened by the Speaker of the Senate, who shall chair the meeting.
3. The first Chairman of the National Council shall be appointed from amongst all the members serving the first term of office.

#### Article 70

1. The Act of 2 December 1960, on the Committee for Radio and Television "Polskie Radio i Telewizja" (official journal "Dz.U.", No. 54, item 307; of 1984, No. 54, item 275) shall hereby be repealed.
2. Prior to the issue of regulations provided for in this Act, however, not longer than for six months, the former provisions of the Act referred to in paragraph 1 shall remain in force, unless they are contrary to this Act.

#### Article 71

The Act shall come into force within a month of its publication, with the exception of Article 52, which shall come into force on 1 July 1993.