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BROADCASTING ACT

of December 29, 1992.

(Consolidated text)

CHAPTER I 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 and scientific achievements,
 - 3a) to disseminate civil education,
 - 4) to provide entertainment,
 - 5) to promote domestic production of audiovisual works,
2. Reception of domestic and foreign programme services, intended by broadcasters 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 broadcasters established in the territory of the Republic of Poland.
2. A broadcaster 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) decisions as regards the structure and content of the programme service are made in the Republic of Poland, or
 - b) a major part of workforce engaged in broadcaster's activities on the basis of employment contract or a contract for services operates in the Republic of Poland, and decisions about the structure and content of the programme service are made in another member state of the European Union, or
 - c) a major part of workforce engaged in broadcaster's activities on the basis of employment contract or a contract for services operates both in the Republic of Poland and in another member state of the European Union,
 - 2) decisions as regards the structure and content of the programme service are made in the Republic of Poland and a major part of workforce engaged in broadcaster's activities on

the basis of employment contract or a contract for services operates in the Republic of Poland, while the broadcaster has its seat in another member state of the European Union,

- 3) the broadcaster began to transmit its programme service in the Republic of Poland or pursuant the law of the Republic of Poland and maintains stable and effective business relations with the Republic of Poland, unless
 - a) the broadcaster's seat is located on in another member state of the European Union and the decisions as regards the structure and content of the programme service are made in another member state of the European Union, or
 - b) a major part of workforce engaged in broadcaster's activities on the basis of employment contract or a contract for services operates in another member state of the European Union in which the broadcaster is has its seat, or if decisions as regards the programme service structure and content are made in another member state of the European Union.
3. A broadcaster shall be deemed established on the territory of the Republic of Poland also if major part of workforce engaged in broadcaster's activities on the basis of employment contract or a contract for services operates in the Republic of Poland and if the broadcaster:
 - 1) has its seat on the territory of the Republic of Poland and decisions as regards the structure and content of the programme service are taken in a state which is not a member state of the European Union, or
 - 2) has its seat in a state other than a member state of the European Union and decisions as regards the structure and content of the programme service are made in the Republic of Poland.
4. A broadcaster who:
 - 1) has at his disposal or uses a frequency on the basis of a decision issued by a Polish public administration authority, or
 - 2) although the broadcaster does not have at his disposal or does not use a frequency on the basis of a decision issued by the relevant public administration authority of a member state of the European Union, the broadcaster uses a satellite capacity reserved by a Polish public administration authority,
 - 3) although the broadcaster does not use a satellite capacity reserved by the relevant public administration authority of a member state of the European Union, the broadcaster uses a satellite up-link situated on the territory of the Republic of Poland,

shall also be deemed established on the territory of the Republic of Poland, notwithstanding that the broadcaster does not meet the conditions specified in paragraphs 1-3 and has not been classified as established in a member state of the European Union under the legal regulations of that state corresponding to regulations set forth in paragraphs 1-3.

Article 2

1. Public broadcasting organisations and holders of broadcasting licences shall be entitled to transmit radio and television 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.

Article 3

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

Article 4

For the purpose of the Act:

- 1) „broadcaster” shall mean a person who produces or assembles programme services and transmits them or has them transmitted, in a complete and unchanged form, by other persons,
- 1a) „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 advertising or teleshopping, sponsored programmes or other sponsored broadcasts,
 - d) does not charge any fees for transmission, retransmission or reception of the programme service.
- 1b) “foreign person” shall mean a foreign person as defined in Article 4 subparagraph 3 of the Act of November 19, 1999, - Business Activity Law (official journal „Dz.U.”, No. 101, item 1178, as further amended),
- 1c) “a creative team” shall mean a team of persons who create programs including, in particular: the director, script writer, set designer, operator, performers of two lead characters and composer,
- 2) „transmission” shall mean:
 - a) over-the-air transmission of a programme service for simultaneous reception by the general public (general reception system),
 - b) introduction of a programme service into a cable network (collective reception system),
- 3) „retransmission” shall mean the reception and simultaneous transmission of a complete and unchanged programme service transmitted by a domestic or foreign broadcaster, with an exception of programme services transmitted by way of cable network,
- 4) „programme service” shall mean a scheduled composition of radio or television programmes, advertising and other broadcasts, transmitted regularly by a single broadcaster,
- 4a) “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 programs and other broadcasts in line with the main theme of the said programme service,
- 5) „programme” shall mean a separate item of a radio or television programme service which is distinct in terms of its content, form, purpose or authorship,

- 5a) „programme originally produced in the Polish language” shall mean a programme which meets the criteria of “European audiovisual 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,
- 6) „advertising” shall mean any broadcast, originating from a person other than the broadcaster, which is intended to promote the sale or any other manner of using products or services, to advance a cause or idea, or to bring about some other effect desired by the advertiser, and which is broadcast in return for remuneration or other form of consideration,
- 7) „sponsorship” shall mean a direct or indirect financing or co-financing of the production or transmission of a programme or other broadcasts by an entity other than the broadcaster or producer of the programme, with a view to establishing, enhancing or promoting the renown of the name, business name, product or service, trademark or other proprietary identification of the sponsor or its business activities,
- 8) „radio or television set” is a technical device which can be used for reception of programme services,
- 9) „teletext service” shall mean a set of texts and motionless images transmitted by means of a television signal simultaneously with the programme service,
- 10) „teleshopping” shall mean any broadcast containing a direct offer of sale of products or supply of services in return for payment,
- 11) „surreptitious advertising” shall mean the representation, within a programme, of products, services, name, business name, trademark or activities of a business operator which is the manufacturer of goods or the provider of services, if the broadcaster’s intention, prompted particularly by a payment of a consideration or deriving other benefit, is to achieve the effect of advertising and if the general public might be misled as to the nature of such a broadcast,
- 12) “producer” shall mean a natural person, legal person or an organisational unit referred to in Article 33¹ § 1 of the Polish Civil Code, which ventures, actually organises and bears the risk of the creative, organisational and financial process of producing audiovisual works,
- 13) “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,
- 14) “business operator” shall mean a business operator as defined in article 2 sections 2 and 3 of the Act of November 19, 1999, - Business Activity Act.

CHAPTER II

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 broadcasters 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 broadcasters,
 - 3) to make, within the scope set forth by the Act, decisions concerning broadcasting licences to transmit and retransmit programme services,
 - 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 broadcasters 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,
 - 6) to determine the licence fees, fees for granting broadcasting licences and registration,
 - 7) to act as a consultative body in drafting legislation and international agreements related to radio and television broadcasting,
 - 8) to initiate research and technical development and training in the field of broadcasting,
 - 9) to organise and initiate international co-operation in the field of radio and television broadcasting,
 - 10) to co-operate with appropriate organisations and institutions in respect of protecting copyright and neighbouring rights as well as the rights of performers, producers and broadcasters of radio and television programme services.

Article 7

1. The National Council shall consist of 9 members, of which 4 shall be appointed by the Sejm¹, 2 by the Senate and 3 by the President from amongst persons with a distinguished record of knowledge and experience in mass media.
2. The Chairman of the National Council shall be appointed by and from amongst the members of the National Council.
- 2a. The National Council may dismiss the Chairman from his office by a two-thirds (2/3) majority of votes of the statutory number of 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, albeit the term of office of one third of the Council members shall be staggered every two years. Members of the National Council shall perform their functions until the appointment of their successors.
5. A member of the National Council may not be appointed for another full term of office.

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

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 sentenced for a deliberate criminal offence and the said sentence is valid and enforceable,
 - 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 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) (null and void),
 - 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 radio and television broadcaster or 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 an absolute 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 broadcaster to provide materials, documentation and information to the extent necessary for the purpose of supervising the broadcaster's compliance with the provisions of the Act and the terms of the broadcasting licence.

3. The Chairman of the National Council may call upon a broadcaster to cease practices in respect of production or transmission of programme 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 broadcaster 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 III

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 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, advertisements 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 15

1. Television broadcasters shall reserve at least 33% of their quarterly transmission time to programmes originally produced in the Polish language, excluding news, advertising, teleshopping, sports events, teletext services and games.
2. Radio and television broadcasters shall reserve at least 33% of their quarterly transmission time devoted to vocal-musical compositions for compositions performed in the Polish language.
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 programs referred to in paragraphs 1 and 3 in radio and television programme services 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, is insufficient,
 - 3) programme services transmitted solely via satellite or cable which in their entirety are available against payment of a fee, excluding fees specified in Chapter 7 and basic fees charged by satellite or cable network operators,- 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.

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. Programs produced not later than 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 in which the broadcaster keeps record of the transmission time,
 - 2) the duration of storage period of such records, however, not less than 1 year,
 - 3) the scope of recorded information, including information about the date of transmission of a 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 of excessive burdens and costs related to keeping the records.

Article 15b

1. A programme shall be deemed to be European work, if it originates from:
 - 1) a member state of the European Union, or
 - 2) a state which is a party to the European Convention on Transfrontier Television done in Strasbourg on May 5, 1989 (official journal “Dz.U.” of 1995, No. 32, item 160) and which does not apply discriminatory measures against any programmes originating from member states of the European Union, or
 - 3) other third European state which does not apply discriminatory measures against any programmes originating from member states of the European Union, provided it meets the requirements laid down in paragraph 3.
2. A programme shall originate from the states referred to in paragraph 1 subparagraphs 1 and 2 if the majority of the creative team 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 states 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. A programme shall also be deemed European work if the majority of creative team members have their permanent residence in the territory of a European state and the programme was produced independently or in co-production with a producer having a seat or permanent residence in one of the member states of the European Union by a producer having a seat or permanent residence in the state referred to in paragraph 1 subparagraph 3, provided that the said state concluded an audiovisual agreement with the European Community.
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. A programme that does not meet the conditions laid down in paragraphs 1-4 shall also be deemed European work to a degree equivalent to the proportionate contribution of co-producers having their seat or permanent residence in a member state of the European Union to the total production costs, if the majority of creative team members have their permanent residence in member state of the European Union.

Article 16

1. Advertising shall be clearly distinguishable as such, and as not originating from the broadcaster, and recognisably separate from the other items of the programme service. The above provision shall apply respectively to teleshopping.
2. Advertising shall not exceed 15%, and advertising broadcast together with teleshopping, subject to provisions of paragraph 3, shall not exceed 20% of the daily transmission time and 12 minutes in any given clock hour.
3. Windows devoted exclusively to teleshopping shall not exceed 3 hours in the daily transmission time. The minimum duration of such a window shall be 15 minutes and the number of such windows may not exceed 8.
4. Pursuant to the provisions of the Act, the National Council shall determine, by a regulation, the manner in which advertising and teleshopping may be conducted in radio and television programme services. In the said regulation, the National Council shall determine:
 - 1) the manner in which the daily transmission time referred to in paragraphs 2 and 3, shall be determined,
 - 2) the conditions under which advertising and teleshopping spots may be broadcast in the programme services,
 - 3) 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,
 - 4) the extent to which a broadcaster may allot transmission time for advertising and teleshopping, including the maximum duration per annum for one business operator or business group,
 - 5) the manner in which the broadcaster shall record and maintain evidence of the duration of advertising and teleshopping broadcast and the range of data to be recorded.

Article 16a

1. Broadcasts of advertising and teleshopping spots are inserted between programmes, with the reservation of paragraphs 2-7.
2. Advertising or teleshopping spots may be inserted during programmes in such a way that the integrity and value of the programme and the rights of the rights holders are not prejudiced,
3. During coverage of sports events containing mandated intervals and of other events containing intervals, and during programmes consisting of autonomous parts, advertising or teleshopping spots shall only be inserted in the intervals or between the parts.
4. Feature and television films, excluding series, serials and documentaries, with duration exceeding 45 minutes, may be interrupted by advertising or teleshopping spots only once for each complete period of 45 minutes. Further interruptions for advertising or teleshopping spots shall be allowed if the duration of the film is at least 20 minutes longer than two or more complete periods of 45 minutes each.
5. Programmes other than those specified in paragraphs 3 and 4 may be interrupted by advertising or teleshopping spots if a period of at least 20 minutes, in a television programme service, and 10 minutes, in a radio programme service, has elapsed between each successive break in the programme.
6. The following programmes may not be interrupted by advertising or teleshopping spots:
 - 1) news and current affairs programmes,

- 2) programmes with a religious content,
 - 3) commentaries and documentaries, the duration of which is less than 30 minutes, and if their duration exceeds 30 minutes, the provisions of paragraphs 2-5 shall apply,
 - 4) programmes intended for children.
7. Programmes in a public radio and television programme service, with the exception of programmes referred to in paragraph 3, shall not be interrupted by advertising or teleshopping spots.

Article 16b

1. It shall be prohibited to broadcast advertising of the 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 November 9, 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),
 - 2) alcoholic beverages, to the extent regulated in the Act of October 26, 1982, on Upbringing in Sobriety and Counteracting Alcoholism (official journal „Dz.U.” of 2002, No. 147, item 1231, as further amended).
 - 3) medical services as defined in the Act of August 30, 1991, on Health Care Institutions (official journal „Dz.U.”, No. 91, item 408, as further amended), available only on prescription,
 - 4) medicinal products, to the extent regulated in the Act of September 6, 2001, - Pharmaceutical Law (official journal „Dz.U.” of 2004, No. 53, item 533 and No. 69, item 625),
 - 5) video lottery, cylindrical games, card games, dice, mutual bets, slot machines, to the extent regulated in the Act of July 29, 1992, on Gambling and Mutual Bets (official journal „Dz.U.” of 2004, No. 4, item 27).
2. It shall be prohibited to broadcast advertising which:
 - 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) is of a subliminal nature.
3. Advertising shall not:
 - 1) prejudice respect for human dignity,
 - 2) include any discrimination on grounds of race, sex or nationality,
 - 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.
4. The provisions of paragraph 1-3 shall apply respectively to teleshopping.

Article 16c

Broadcasting of surreptitious advertising shall be prohibited.

Article 17

1. Sponsored programmes or other broadcasts shall be identified as such by sponsor credits at their beginning or end. 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, the image of a single product or service.
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 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 Article 16b paragraph 1, subparagraph 1 and 2, subject to stipulations of Article 13¹ paragraph 5 and 6, of the Act on Upbringing in Sobriety and Counteracting Alcoholism.
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 record and maintain evidence of the programmes or other broadcasts sponsored and the scope of information to be recorded.

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 any discrimination on grounds of race, sex 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 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 and 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 programs 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 programs 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 paragraph 5a and 5b, and the manner of their presentation,
 - with due regard for the degree of harmful effect of the given programme or broadcast 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 19

1. Broadcasters' activity consisting in producing or assembling 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.

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 allowing to identify the person who ordered a programme or advertisement,
 - 2) deliver, free of charge, the recording of the programme or advertisement 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, with the exception of fees laid down in Chapter 7 and of the basic fees collected by the operators of cable networks, 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.
2. 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 and Europe Football Cup, 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, the 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.

CHAPTER IV

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 arising out of the implementation of the 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 granted 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 activities,
 - 8) dissemination of knowledge of Polish language,
 - 9) production of educational programmes and ensuring access by people of Polish descent and Poles living abroad to such programmes.

2. Programme 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,
 - 8) contribute to combating social pathologies,
 - 9) have regard to the needs of ethnic groups and minorities.

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 service organisations referred to in the Act of April 24, 2003, on Public and Voluntary Service (official journal "Dz.U." No. 96, item 873) to provide, without any fee, information about the services provided free of charge by these organisations.
2. Paragraph 1 shall not in any way restrain the broadcaster's right to provide more extensive information about services offered by the public service organisations.
3. The National Council may determine, by a regulation, the procedure of action in respect of providing, without any fee, information of the services provided free of charge by public service

organisations, with due regard for the needs of these organisations and for the duties of the public radio and television broadcasting organisations.

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 March 14, 2003 on Nationwide Referendum (official journal "Dz.U." No. 57, item 507 and No. 85, item 782) shall be enabled to transmit referendum programs 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 broadcast 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 responsible respectively for foreign affairs and for national education with public radio and television organisations.

Article 26

1. Public radio and television broadcasting organisations shall operate exclusively in the form of 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”² established for the purpose of producing and transmitting national programme services I, II, TV Polonia as well as regional television programme services.
3. Public radio shall be formed by:
 - 1) „Polskie Radio - Spółka Akcyjna”³ 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”.

² TRANSLATOR'S NOTE: „Polish Television - Joint-Stock Company”.

³ TRANSLATOR'S NOTE: „Polish Radio - Joint-Stock Company”.

4. The provisions of the Code of Commercial Companies, except for Articles 313 and 369, shall apply to companies referred to in paragraphs 2 and 3, with the reservation of Articles 27-30 of the Act.
5. Acting in agreement with the President of the Telecommunications and Post Regulatory Office, the Chairman of the National Council shall reserve, by a decision, the frequencies required for the companies to perform their statutory tasks and shall lay down the conditions of use of these frequencies. Any frequency reservations, modifications or withdrawals thereof within the scope provided for by Article 37, paragraph 1, subparagraph 3, shall be governed by the provisions of Article 22 and Article 23 of the Act of July 21, 2000 - "Telecommunications Law" (official journal „Dz.U.”, No. 73, item 852).
6. The President of the Telecommunications and Post Regulatory Office shall make available to the National Council, for allocating 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 and distributed via satellite.
8. The provisions of Article 22, paragraph 4 and Article 23, paragraph 1, subparagraph 5 of the Act - „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 five members.
2. Members of the Board of Management, including the President, shall be appointed and dismissed by the Supervisory Board by two-thirds majority of votes cast in the presence of at least three-fourths of the Board’s members.
3. The Board of Management shall have a term of office of four years.

Article 28

1. The Supervisory Board shall consist of five to nine members. Members of the Council shall be appointed by the National Council, with the exception of one member who shall be appointed by the minister in charge of the State Treasury.
2. The Supervisory Board shall adopt resolutions by an absolute majority of votes cast in the presence of at least a half of the Council 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 Council.

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.
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. The National Council shall determine the minimum share of the company's regional branches in proceeds from licence fees referred to in Article 48 and 49.

Article 30a

1. The provisions concerning programme services for viewers abroad shall apply respectively to the TV Polonia programme service.
2. There programme council of TV Polonia shall serve as an advisory and consultative body in respect of the production and transmission of the TV Polonia programme service.

Article 31

1. The revenues of 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, subject to the reservation of Article 50 paragraph 1,
 - 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 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 paragraph 2 and 3 shall be obligated to specify in the documents, referred to in Article 10 of the Accounting Act of September 29, 1994, (official journal „Dz.U.” of 2002, No. 76, item 694, as further amended) 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 allocation methods 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 subparagraph 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

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

- 1) by February 15, an annual report on the use of funds, referred to in Article 31 paragraph 1 and 2, as regards the previous calendar year,
- 2) by the 25th day of the month following the end of each quarter of a calendar year, the 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, the quarterly reports on costs incurred in connection with the activities referred to in Article 21 paragraph 1a, including the specification of their financing sources,
- 4) by April 30 of each year, the programme & financial guidelines underlying the implementation of the tasks referred to in Article 21 paragraph 1a for the following year.

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 V

Broadcasting Licences

Article 33

1. Transmission of programme services other than those of public radio and television broadcasters shall require a licence to broadcast.
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. Acting in agreement with the President of the Telecommunications and Post Regulatory Office, the Chairman of the National Council shall publish in the printed press an announcement concerning availability of broadcasting licences to transmit radio and television programme services and determine the time limit, which shall not be less than one month from the date of the announcement, for filing licence applications.
2. The Chairman of the National Council shall publish the 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 granted to natural persons of Polish nationality who permanently reside in Poland or to legal persons having their permanent seat in Poland.
2. Companies having foreign shareholders may be awarded a broadcasting licence if :
 - 1) 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 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 Companies and Partnerships, 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) persons of Polish nationality who permanently reside in Poland constitute a majority of members of the Supervisory Board of the said company.
3. The license may also be granted to:
 - 1) a foreign person, or
 - 2) a subsidiary, as defined by the Code of Commercial Companies and Partnerships, 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 36

1. In considering the application, the following criteria shall apply in particular:
 - 1) the degree of compliance of the proposed programming activities with the tasks of broadcasting laid down in Article 1 paragraph 1 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 estimated share of programmes produced or commissioned by the broadcaster or co-produced by the broadcaster jointly with other broadcasters,
 - 4) the planned share of the programmes referred to in Article 15 paragraphs 1 and 3, in television programme service, or of works referred to in Article 15 paragraph 2, in radio or television programme service,
 - 5) past compliance with regulations governing radio communications and the mass media.
2. 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 violation of state secrets,
 - 2) achievement, by the applicant, of a dominant position in mass media in the given area.
3. Broadcasting licence may be awarded for a period of not less than three years and not more than ten years, in the case of television broadcasting, and seven years, in the case of radio broadcasting.

Article 37

1. The broadcasting licence shall specify in particular:
 - 1) the identity of the broadcaster, his seat or place of residence,
 - 2) the nature of activity covered by the broadcasting licence,
 - 3) method of transmitting the programme service (by terrestrial diffusion, satellite distribution and cable system) and:
 - for terrestrial diffusion:
 - a. location of the station,
 - b. height on which the antenna is located,
 - c. power of the transmitter and the maximum transmission power,
 - d. antenna pattern,
 - e. frequency,
 - f. polarisation,
 - for transmission via satellite:
 - g. the name of the satellite used,
 - h. the satellite's position on the orbit,
 - i. frequency,
 - j. the power of the transponder.
 - for cable system:
 - k. the location of the system head station,
 - l. area covered by the cable system.
 - 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,
 - 7) the share of programmes produced by domestic producers within the programme service.
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 Telecommunications and Post Regulatory Office.
- 3a. Where the transmission of radio or television programme services requires a frequency reservation, such reservation shall be made in conjunction with the broadcasting licence. Frequency reservations, alterations and revocations shall be governed by Article 22 and Article 23 of the Act - "Telecommunications Law".
4. Following consultation with the President of the Telecommunications and Post Regulatory Office, the National Council shall specify, by a regulation, the essential information to be provided in the application form as well as the detailed procedure of awarding or revoking broadcasting licences.

Article 37a

A broadcaster shall on an annual basis deliver to the National Council its financial statements prepared in the form specified in the Accounting Act of September 29, 1994 (official journal „Dz. U.” No. 121, item 591; 1997, No. 32, item 183, No. 43, item 272, No. 88, item 554, No. 118, item 754, No. 139, items 933 and 934, No. 140, item 939, No. 141, item 945; 1998, No. 60,

item 382, No. 106, item 668, No. 107, item 669, No. 155, item 1014; 1999, No. 9, item 75, No. 83, item 931; 2000, No. 60, item 703, No. 94, item 1037, No. 113, item 1186).

Article 38

1. The broadcasting licence may be revoked if:
 - 1) the transmission of programme services threatens the interests of the national culture, security and defence or if it transgresses the standards of public decency,
 - 2) by transmitting programme services the broadcaster gains a dominant position in mass media in the given area,
 - 3) another person takes over direct or indirect control over the activity of the broadcaster,
 - 4) the activity subject to the broadcasting licence is performed in breach of the Act or the terms of the licence,
 - 5) the licensee fails to commence operations within the time limit specified in the broadcasting licence or if the licensee's activity is interrupted for more than three months, unless the delay in commencing the initial emission or the break are caused by circumstances beyond the broadcaster's control,
 - 6) the licensee fails to make the full payment of the broadcasting licence fee within the time limit provided for in the broadcasting licence,
 - 7) the licensee fails to deliver the financial statements referred to in Article 37a.

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 of the broadcaster's activity.
2. The provisions of the Act, with the exception of the provisions of Articles 15-15b, shall apply as appropriate to programme services referred to in paragraph 1.
3. The following shall not apply to 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 2,
 - 2) the provisions of Article 16 paragraph 3 and Article 16a.

Article 39b

1. The following may apply to the National Council to be granted the status of social broadcasters:
 - 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 broadcaster 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 1a, 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, irrespective of the fee for the use of radiocommunications equipment or the use of a frequency, provided for in the Act - „Telecommunications Law”.
2. Acting in agreement with the minister in charge of public finance sector and taking into account the nature of particular broadcasters and their programme services, the National Council shall determine, by a regulation, the fees referred to in paragraph 1. The National Council may specify entities exempt from such fee.

Article 40a

1. Purchase or acquisition of shares or interest, or the 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 Companies and Partnerships.
3. The Chairman of the National Council shall issue and withdraw the consent referred to in paragraph 1, on the basis of a resolution of the National Council.
4. Actions, referred to in paragraph 1, performed without the consent shall be null and void.
5. The provisions of paragraph 1 - 3 shall not apply to foreign persons or subsidiaries, as defined by the Code of Commercial Companies and Partnerships, of foreign persons whose having a seat or permanent residence in a member state of the European Economic Area.

CHAPTER VI

Retransmission of Programme Services in Cable Networks

Article 41

1. Retransmission of programme service shall be subject to registration.
2. The provision of paragraph 1 shall not apply to the retransmission of national programme services of public radio and television and other programme services of domestic broadcasters receivable within the coverage area by means of receivers for use by the general public.
3. The registering authority shall be the Chairman of the National Council.

4. The Code of Administrative Procedure shall apply to the registration process, unless otherwise provided for in the Act.
5. The register shall be open to the public.

Article 42

1. A fee shall be charged for registration.
2. Acting in agreement with the minister in charge of public finance sector, the National Council shall determine, by a regulation, the fee referred to in paragraph 1 and may specify entities exempt from such fee.

Article 43

1. The cable network operator shall introduce programme services into the cable network in the following sequence:
 - 1) national programme services of public radio and television,
 - 2) regional programme services of public radio and television, received in the given area,
 - 2a) programme services of domestic social broadcasters, receivable in the given area,
 - 3) programme services of other domestic broadcasters, receivable in the given area,
 - 4) programme services of other domestic and foreign broadcasters.
2. In justified cases, the Chairman of the National Council may issue a decision permitting a different sequence of introducing programme services into a cable network as compared to that referred to in paragraph 1.

Article 44

1. The registering authority shall register the retransmission of a programme service on the basis of a notification.
2. The cable network operator shall notify the retransmission of a programme service for the purpose of its registration not later than 2 months prior to the commencement of retransmission.
3. The notification referred to in paragraph 1 shall:
 - 1) specify the applicant, his seat or place of residence,
 - 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) demonstrate that the applicant has the authorisation necessary to use the broadcasting equipment and to operate telecommunication lines required to retransmit the programme service,
 - 5) (repealed).
4. Retransmission of the programme service may be commenced if the registering authority has not refused the registration within 2 months from the date of filing the application.
5. The cable network operator shall notify the registering authority, within 14 days, of any changes in the state of facts or the legal status which are covered by the obligation to register and which arose after the act of registration. The provisions governing the registration of programme service retransmission shall apply accordingly to notification of changes.
6. (repealed).

Article 45

1. The registering authority shall refuse to register a programme service if:
 - 1) the applicant has no authorisation to use the radio equipment or telecommunication networks,
 - 2) contents in breach of provisions of Article 18 were transmitted at least twice in the said programme service during the last 12 months,
2. The registering authority shall impose a ban upon the cable network operator to retransmit programme services or a particular programme service, if:
 - 1) contents inciting hatred on the grounds of race, sex, nationality or religion or contents in breach of provisions of Article 18 paragraph 4 and 5 were retransmitted at least twice in the said programme service during the last 12 months,
 - 2) the operator introduces changes to the programme service or does not retransmit it complete or simultaneously,
 - 3) the operator fails to comply with the sequence regulating the introduction of programme services into the cable network laid down in the Act.
3. The refusal to register retransmission of a programme service or imposing a ban upon retransmission shall be made in the form of an administrative decision; the provisions of Article 33 paragraph 3 shall apply accordingly to such a decision.
4. When a ban is imposed as specified in paragraph 2, the Chairman of the National Council acting ex officio shall nullify the registration of the programme services or programme service retransmission.
5. A registration shall be nullified ex officio in case of loss, by the cable network operator, of the authorisation to operate broadcasting equipment and telecommunications network used for the purpose of retransmission of programme services.

Article 46

The National Council shall determine, by a regulation, the detailed procedures for registration of programme services retransmitted in cable networks and shall set the form of the register.

Article 47

The provisions concerning granting a licence to broadcast programme services shall apply accordingly to the over-the-air retransmission of programme services.

CHAPTER VII

Licence Fees

Article 48

1. Licence fees shall be charged for the use of radio and television sets.

2. Persons possessing a radio and television set in a condition enabling an immediate reception of a programme service shall be deemed to use that set.
3. The National Council shall determine, by a regulation, the amount of licence fee payable for the use of a radio set and the licence fee payable for the use of a television set, or both as well as the manner and procedure of payment of these fees. The National Council may also specify cases in which the payment of licence fees in arrears shall be annulled or repayment divided into instalments. The National Council may, for social reasons, grant to certain groups of persons a reduction or exempt them from payment of the licence fees.
4. Subject to the reservation of paragraph 5, the license fee shall be paid for every radio and television set.
5. Irrespective of the number of radio and television sets used by:
 - 1) natural persons in the same household or motor vehicle which constitutes their property,
 - 2) public health care institutions, sanatoria, nurseries, public educational institutions, public higher education establishments and social welfare institutions - in the same building, within a complex of buildings or in motor vehicles used by these institutionsonly one of the fees referred to in paragraph 3 shall be paid.
6. The provisions of paragraphs 3-5 shall not prejudice entitlement to exemption from licence fees granted under the existing legislation other than the Act.

Article 49

1. Radio and television sets shall be registered by units supervised by the minister in charge of communications for the purpose of collecting licence fees for their use.
2. Persons found using an unregistered radio or television set shall be liable to a fine equivalent to thirty times the amount of the monthly licence fee payable on the day of committing the offence.
3. Payment of the fine, referred to in paragraph 2, shall not release the person concerned from the duty to pay the current licence fee from the day on which such a person is found using an unregistered set.
4. Legal interest shall be charged for any delay in the payment of the licence fees.
5. The units, referred to in paragraph 1, shall collect licence fees and interest for the delay in payment of the licence fees and, after deducting the contractual remuneration for these services, shall remit them to a special account of the National Council, earmarked for purposes referred to in Article 50 paragraph 1.
6. Acting in agreement with the Chairman of the National Council, the minister in charge of communications shall specify, by a regulation, the organisational unit responsible for keeping the register, referred to in paragraph 1, as well as the manner and procedure of registering radio and television sets.

Article 50

1. The proceeds referred to in Article 48 paragraph 1 and Article 49 paragraphs 2 and 4, with the exclusion of deductions specified in Article 49 paragraph 5 and Article 51 paragraph 5, shall be earmarked exclusively for the discharge by public radio and television broadcasters of the tasks referred to in Article 21 paragraph 1 in the amount that shall not exceed the expenses incurred in connection with the discharge of the same tasks.
2. After an analysis of the programme & financial guidelines referred to in Article 31b subparagraph 4 and reports referred to in Article 31b subparagraph 3 for the past calendar year

and an analysis of costs specified therein, the National Council shall determine on an annual basis, by June 30 every year at the latest, the method of distributing the proceeds amongst the public radio and television broadcasting organisations for the following calendar year, including the minimum share of the local branches of companies.

3. The Chairman of the National Council shall allocate funds by way of advance payments to radio and television broadcasting organisations for implementation of their tasks, referred to in Article 21 paragraph 1, on the basis of the adopted proceeds distribution method referred to in paragraph 2.
4. If it follows from the report referred to in Article 31b subparagraph 3 that the proceeds referred to in Article 31 paragraph 1 subparagraph 1 and 2 exceed the value of expenditure on the discharge of tasks referred to in Article 21 paragraph 1, the surplus shall be set-off against expenditure for the discharge of the same tasks in the following quarter of the year.

Article 51

1. The minister in charge of communications shall be responsible for control over compliance with the duty to register radio and television sets.
2. The minister in charge of communications shall determine, by a regulation:
 - 1) units, remaining under the supervision of the Minister, whose authorised employees may carry out inspections referred to in paragraph 1 and whose executive officers may take decisions referred to in paragraph 4 and define the scope of their regional application,
 - 2) the form of authorisation to carry out such inspections as well as the manner and procedure of issuing such authorisations.
3. The provisions of the Code of Administrative Procedure shall apply accordingly to inspections referred to in paragraph 1.
4. Once a person is found using an unregistered radio or television set, the unit conducting the inspection shall issue a decision obliging that person to register it and set a fine using an unregistered set according to the terms laid down in Article 49 paragraph 2.
5. Half of the proceeds generated from fines for use of unregistered sets shall constitute the income of units conducting the inspection over compliance with the duty to register radio and television sets.
6. After deducting the amounts referred to in paragraph 5, proceeds from the fines referred to in paragraph 4 shall be remitted to a special account of the National Council earmarked for purposes referred to in Article 50 paragraph 1.
7. Decisions referred to in paragraph 4 shall be carried out within 14 days from the day of delivering such a decision. In case of failure to comply with the decision, regulations concerning administrative enforcement procedure shall apply.

CHAPTER VIII

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. Broadcaster failing to comply with the obligations laid down in Article 15 paragraphs 1-3, Article 15a paragraph 1, Article 16 paragraphs 1-3, Article 16a paragraphs 1-6, Article 16b, Article 16c, Article 17 paragraphs 1-7, Article 18, paragraphs 1-5b, Article 20 paragraph 1, Article 20b paragraphs 1 and 6 or under the provisions issued pursuant to Article 15 paragraph 4, Article 15a paragraph 2, Article 16 paragraph 4, Article 17 paragraph 8 and Article 18 paragraph 6, shall be liable to a fine imposed by decisions of the Chairman of the National Council in the amount of 50% of the annual fee for the use of frequency allocated for broadcasting the programme service, while broadcasters who fail to make the payment of the frequency fee, shall be liable to a fine of up to 10% of the revenues generated by the broadcaster in the preceding tax year.
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 54

1. If a person who directs the broadcaster's operations fails to carry out the decisions issued on the basis of Article 10 paragraph 4, the Chairman of the National Council may, by a decision, impose a fine upon such person; however, such fine shall not exceed the person's six month's income.
2. The same fine may be imposed upon a person who directs the broadcaster's operations for the 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 over than two elapsed from the date of issuing the decision referred to in paragraph 1.

Article 55

Fines referred to in Article 53 and 54 shall be paid to the state budget.

Article 56

1. Decisions of the Chairman of the National Council issued under Article 10 paragraph 4 and Article 53 and 54 may be appealed against to the Voivodship Court in Warsaw – Commercial Court.
2. The provisions of the Code of Civil Procedure relating to counteracting monopolistic practices shall apply correspondingly to the procedure in cases involving appeals against the decisions referred to in paragraph 1.

3. In case of appeal against a decision of the Chairman of the National Council, referred to in paragraph 1, 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 renewal of the procedure, repeal, reversal or annulment of the decision.

CHAPTER IX

Amendments to the Applicable Legislation, Transitional and Final Provisions

Article 57

In Article 1 paragraph 1 subparagraph 2 of the Act of December 30, 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 omitted and the following phrase shall be inserted thereafter „and the National Broadcasting Council”.

Article 58

Subparagraph 7 shall be inserted in Article 1 paragraph 2 of the Tribunal of State Act of March 26, 1982, (official journal „Dz.U.” No. 11, item 84), following replacement of the period at the end of the paragraph with a coma:

„7) members of the National Broadcasting Council”.

Article 59

The following amendments shall be introduced in Article 48 of the Act of May 17, 1989, on Relations between the State and the Roman Catholic Church in the Republic of Poland (official journal „Dz.U.” No. 29, item 154; 1990, No. 51, item 297, No. 55, item 312, No. 86, item 504; 1991, No. 95, item 425 and No. 107, item 459):

- 1) paragraph 2 shall read as follows:
„2. The manner of exercising the rights referred to in paragraph 1 shall be regulated by agreements between the Secretariat of the Conference of the Polish Episcopate and the public radio and television broadcasting organisations.”,
- 2) the period at the end of paragraph 3 shall be omitted and the following phrase shall be inserted at the end of the sentence „according to the provisions of the Broadcasting Act.”,
- 3) paragraph 4 shall be repealed.

Article 60

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

„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 radio and the public radio and television broadcasting organisations”.

Article 61

The following amendments shall be introduced in the Act of November 23, 1990, on Communications (official journal „Dz.U.” No. 86, item 504; 1991 No. 69, item 293, No. 105, item 451): (amendments disregarded).

Article 62

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

„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 operation of the state organisational unit „Polish Radio and Television” until the registration of 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 of 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 operations in the same area, however, not later than within a year from the date the Act comes into force.
6. The provisions of paragraph 5 shall not apply to permits issued under the act referred to in Article 59.
7. The provisions 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 who retransmit programme services in cable networks shall adjust their activities in order to comply with the provisions of Chapter VI 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 1 having its seat in Warsaw and companies referred to in Article 26 paragraph 3 subparagraph 2 having its seat 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 refer the statutes of the companies referred to in paragraphs 1 and 2 to the National Council for approval. The statute 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”⁴ hereinafter referred to as PRTV, to 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.

Article 66

1. Land belonging to the State Treasury and administered by PRTV on the date of entry of the present Act into force shall, on the date of registration of the companies, be given to them for permanent use. Provisions of Article 41 paragraph 1 of the Act of April 29, 1985, on Administration of Real Property and Expropriation (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 payment.
2. Buildings and other facilities as well as premises located on land belonging to the State Treasury and administered by PRTV on the date the Act comes 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 permanent use of the land under paragraph 1 and the ownership title to the buildings, other facilities and premises under paragraph 2, shall be effected by virtue of a

⁴ TRANSLATOR'S NOTE: „Polish Radio & Television”.

decision of the Voivod. The said decision shall also determine the conditions of the permanent use of land, in accordance with the provisions of Article 236 of the Civil Code.

Article 67

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

Article 68

1. The rights and liabilities of the Committee and PRTV arising out of administrative decisions shall, by operation of law, be transferred to the companies.
2. The Minister of Communications acting in agreement with the Chairman of the National Council shall assign to companies, referred to in Article 26 paragraphs 2 and 3, the frequencies used by PRTV on the date of entry of present Act into force for the transmission of radio and television programme services.
3. The right to use frequencies referred to in paragraph 2 granted to other subjects on the basis of former provisions shall expire on the date of assignment of these frequencies to the companies.
4. The assignment of frequencies referred to in paragraph 2 shall be 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 December 2, 1960, on the Committee for Radio and Television „Polskie Radio i Telewizja” (official journal „Dz.U.” No. 54, item 307; 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 July 1, 1993.