**NATIONAL BROADCASTING COUNCIL**

Warsaw, 5 September 2012

**Council’s standpoint on the transmission of matches   
of the Polish national football team**

The television transmission of matches played by the Polish national football team is governed in the Act on radio and television broadcasting dated 29 December 1992 (“Act”). The purpose of the Act is to ensure that the audience has general and free access to the transmission of events of substantial social importance, which are called “important events” in the legislation.

Due to the vast interest of the public, important events include, but are not limited to, semi-finals and finals of world and European championships in football as well as all other matches played as part of those events with the participation of the Polish national team, including elimination games and other matches with the participation of the Polish national football team played as part of official tournaments (Art. 20b section 2 points 2 and 3 of the Act). In view of the foregoing, the matches of the Polish national team with the Montenegro and Moldavia national teams played as part of eliminations to the 2014 World Cup in football constitute important events within the meaning of the Act.

Pursuant to the Act, a television broadcaster may directly transmit an important event only via a national programme within the meaning of the Act or the concession which is available in its entirety without a fee, save for subscription fees within the meaning of the Act on subscription fees and basic charges collected by cable television operators, dated 21 April 2005 (Art. 20b section 1 of the act).

Pursuant to Art. 20b section 6 of the Act, the obligation provided in Art. 20b section 1 of the Act, which requires that direct transmissions of important events be broadcast in a programme fulfilling the above criteria, may be waived only if none of the broadcasters meeting those requirements expressed their willingness to sign a contract for the transmission. A broadcaster willing to transmit matches which are important events, in a programme entirely or partially available against a fee or which is not a national programme, must prove that a contract for the transmission was offered to all broadcasters of national programmes within the meaning of the Act or the concession, including programmes carried on the first and second multiplex and which are available entirely without charge, and none of them expressed their willingness to conclude the contract.

It should be emphasised that the assessment of “expressing the willingness to conclude the contract” for the transmission of matches by broadcasters of national programmes that are available without charge, apart from the very fact of the ultimate lack of agreement between the parties, will be essentially based on the evaluation of terms of the negotiated contract in order to establish whether the contract offer was not an apparent action.

In addition, pursuant to Art. 53 section 1 of the Act, the broadcaster’s breach of its obligations under the above Art. 20b sections 1 and 6 of the Act is subject to financial penalty. In the event that a broadcaster is in breach of the abovementioned obligations, the Chairman of the National Broadcasting Council issues a decision imposing financial penalty upon the broadcaster accounting for up to 50% of the annual charge for using the programme frequency, and if the broadcaster does not pay the frequency charge – accounting for up to 10% of the broadcaster’s revenue generated in the previous fiscal year considering the scope and level of the harm done by the breach, the hitherto operations of the broadcaster and its financial capacity.

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