

**BROADCASTING ACT**  
**of 29 December 1992**  
*(Unofficial translation of the consolidated text)*

Chapter 1

**General Provisions**

**Article 1.1.** The tasks of radio and television broadcasting shall be:

- 1) to provide information,
- 2) to ensure access to culture and art,
- 3) to facilitate access to education, sport and scientific achievements,
- 3a) to disseminate civic education,
- 4) to provide entertainment,
- 5) to promote domestic production of audiovisual works.

1a. The tasks of radio and television broadcasting, referred to in paragraph 1, shall be implemented by providing media services, television programme services and video sharing platforms.

2. Reception of domestic and foreign programme services and on-demand audiovisual media services, as well as content hosted on video sharing platforms intended by their providers to be viewed 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 providers of media services and video sharing platforms established in the territory of the Republic of Poland.

2. A media service provider shall be deemed to be established in the territory of the Republic of Poland if it meets at least one of the following criteria:

- 1) it has its head office in the territory of the Republic of Poland, and:
  - a) decisions taken on a regular basis as part of the exercise of editorial responsibility, related to the day-to-day operation of the media service (editorial decisions) are made in the territory of the Republic of Poland, or
  - b) a significant part of workforce engaged in the provision of a programme service on the basis of an employment contract or a civil-law contract operates in the territory of the Republic of Poland, and editorial decisions about the media service are taken in another Member State of the European Union, or
  - c) a significant part of workforce engaged in the provision of a programme service on the basis of an employment contract or a civil-law contract operates both in the territory of the Republic of Poland and in another Member State of the European Union;
- 2) editorial decisions are taken in the territory of the Republic of Poland and a significant part of workforce engaged in the provision of the programme service on the basis of an employment contract or a civil-law contract operates in the territory of the Republic of Poland, while the media service provider has its head office in another Member State of the European Union;
- 3) it began to provide the media service in the territory of the Republic of Poland or pursuant to the law of the Republic of Poland and maintains stable and effective business relations with the Republic of Poland, unless:

- a) the media service provider's head office is located in another Member State of the European Union and editorial decisions about the media service are taken in another Member State of the European Union, or
- b) a significant part of workforce engaged in the provision of the media service on the basis of an employment contract or a civil-law contract operates in another Member State of the European Union in which the media service provider has its head office, or if editorial decisions about the media service are taken in the territory of another Member State of the European Union.

3. A media service provider shall be deemed established in the territory of the Republic of Poland also if a significant part of workforce engaged in the provision of the programme service on the basis of an employment contract or a civil-law contract operates in the Republic of Poland and if the said provider:

- 1) has its head office in the territory of the Republic of Poland and editorial decisions about the media service are taken in a state which is not a Member State of the European Union, or
- 2) has its head office in a state which is not a Member State of the European Union and editorial decisions about the media service are taken in the territory of the Republic of Poland.

4. The Act shall also apply to a media service provider who:

- 1) uses a satellite uplink station situated in the territory of the Republic of Poland, or
- 2) does not use the station but uses a satellite link that belongs to the Republic of Poland,

- notwithstanding that the provider does not meet the conditions specified in paragraphs 2 and 3 and is not deemed to be a media service provider established in a Member State of the European Union under the laws of that State corresponding to the conditions set forth in paragraphs 2 and 3.

5. A provider of a video sharing platform shall be deemed to be established in the territory of the Republic of Poland if it has its head office in the territory of the Republic of Poland.

6. A provider of a video sharing platform which does not have its head office in the territory of the Republic of Poland, but has a controlling company in the territory of the Republic of Poland within the meaning of Article 3 paragraph 1 subparagraph 37 of the Accounting Act of 29 September 1994 (official journal "Dz.U." of 2021, item 217, 2105 and 2106 and of 2022, item 1488), a branch within the meaning of Article 3 subparagraph 4 of the Act of 6 March 2018 on the Principles of Foreign Entrepreneurs and Other Foreign Persons' Participation in Business in the Territory of the Republic of Poland (official journal "Dz.U." of 2022, item 470) or a representative office referred to in Article 21 of the said Act, or a subsidiary referred to in Article 3 paragraph 1 subparagraph 39 of the Accounting Act of 29 September 1994 shall also be deemed to be a provider of a video sharing platform established in the territory of the Republic of Poland, unless it has:

- 1) its head office in the territory of another Member State of the European Union;
- 2) a controlling company in the territory of another Member State of the European Union established before the establishment of the controlling company in the territory of the Republic of Poland, provided that the connection between the said company established in the territory of another Member State of the European Union with the economy of that State is real and permanent;
- 3) a branch, representative office or another subsidiary in the territory of another Member State of the European Union established before the establishment of the branch, representative office or another subsidiary in the territory of the Republic of Poland, provided that the connection between the said branch, representative office or another subsidiary established in the territory of another Member State of the European Union with the economy of that State is real and permanent.

7. The National Broadcasting Council publishes and keeps updated the list of media service providers and video sharing platform providers established in the territory of the Republic of Poland, which shall include:

- 1) the name of the media service provider or the video sharing platform provider,
- 2) indication of the media service or the video sharing platform provided by those providers,

- 3) the underlying provision based on which it has been determined that the media service provider or the provider of a video sharing platform is established in the territory of the Republic of Poland.

**Article 2.1.** The right to transmit radio and television programme services shall be vested with public radio and television broadcasting companies as well as natural persons, legal persons and partnerships that have received a relevant broadcasting licence or, in the case of television programme services transmitted exclusively in information and communication technology systems, that have been entered in the register of such programme services.

2. This 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 operations 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 other particular group of people connected to the broadcaster;
- 3) programme service retransmitted in a cable network, where the number of individual viewers and/or listeners does not exceed 250;
- 4) radio programme services transmitted exclusively in information and communication technology systems and to on-demand audio services;
- 5) correspondence exchanged with the use of means of electronic communications;
- 6) electronic versions of dailies and magazines as well as press accessible in an information and communication technology system, provided that audiovisual programmes do not constitute a prevailing part thereof;
- 6a) services provided electronically, allowing content to be shared by their users (social networking sites), provided that their principal function is not the provision of user-created audiovisual or video programmes;
- 7) games of chance and mutual bets unless they form part of a media service programme.

3. When assessing the principal function of the service referred to in paragraph 2 subparagraph 6a, account shall be taken of the connection between the audiovisual content and the principal type(s) of business conducted with the use of the given service, the quantitative and qualitative significance of the audiovisual content for that service, the way of generating revenues through the audiovisual content and availability of tools designed to increase visibility or attractiveness of the audiovisual content within the frame of the service.

**Article 3.** Unless it is otherwise provided for in the Act, the press law shall apply to the transmission of radio and television programme services.

**Article 3a.1.** In view of performance of obligations set out in the Act, in particular in Article 14a, Article 16b paragraph 3a, Article 18a, Article 47e and Article 47g, media service providers may develop and follow codes of best practice as defined in the Act of 23 August 2007 on Counteracting Unfair Market Practices (official journal “Dz.U.” of 2017, item 2070).

1a. In view of performance of obligations set out in the Act, in particular in Article 47p paragraph 1, Article 47q paragraph 1, Article 47t paragraphs 1 to 3, and Article 47u paragraph 1, video sharing platforms providers may develop and follow codes of best practice as defined in Article 2 subparagraph 5 of the Act of 23 August 2007 on Counteracting Unfair Market Practices.

1b. The codes referred to in paragraphs 1 and 1a:

- 1) set out clear and unambiguous objectives and provide for regular, transparent and independent evaluation methods to assess their attainment;
- 2) contain measures to secure the effective enforcement of their provisions, including effective and proportionate sanctions for non-compliance;

- 3) are accepted by the majority of stakeholders interested in implementing the obligations set out in these codes, including the main media services providers or video sharing platform providers established in the territory of the Republic of Poland.

2. Acting for on-demand audiovisual media services and video sharing platforms, the National Broadcasting Council in cooperation with the minister in charge of a government administration department relevant to the code in question shall initiate, support and promote the development of codes of best practice referred to in paragraphs 1 and 1a.

**Article 4.** For the purposes of the Act:

- 1) “Media service” shall mean a service in the form of a programme service or an on-demand audiovisual media service, which is under the editorial responsibility of its provider and the principal purpose of which or the principal purpose of a separable part thereof is the provision of programmes through telecommunications networks in order to inform, entertain or educate the general public; commercial communication shall also be a form of media service;
- 2) “Programme” shall mean a set of moving images with or without sound (audiovisual programme) or a set of sounds (radio programme) constituting a separate item within a programme service developed by the media service provider or a catalogue of programmes made available to the public as part of on-demand audiovisual media service, hereinafter the “catalogue”;
- 3) “Editorial responsibility” shall mean the exercise of effective control both over the selection of the programmes and over their organisation in a programme service or in a catalogue; the foregoing shall not prejudice the principles of legal liability for the content of programmes or provision of the service;
- 4) “Media service provider” shall mean a natural person, legal person or partnership that has editorial responsibility for the choice of the content of the media service and determines the manner in which it is organised, and is a broadcaster or a provider of on-demand audiovisual media service;
- 5) “Broadcaster” shall mean a natural person, legal person or partnership that develops and organises a programme service and transmits it or has it transmitted by other persons;
- 6) “Programme service” shall mean a scheduled composition of programmes, commercial communications or other broadcasts, transmitted as a whole, in a manner that allows simultaneous reception by viewers and/or listeners in a sequence determined by the broadcaster;
- 6a) “On-demand audiovisual media service” shall mean a media service provided within the frame of business operations carried out for this purpose, consisting in the provision of audiovisual programmes to the general public in accordance with the catalogue of programmes created by the service provider;
- 7) “Transmission” shall mean broadcasting a programme service over the air or by wire for reception by viewers and /or listeners;
- 8) “Retransmission” shall mean the reception of a transmitted, complete and unchanged programme service and its simultaneous, secondary transmission;
- 8a) “Provision of on-demand audiovisual media service to the general public” shall mean the provision of such service in a manner enabling the reception by the users, at the time of their choice and at their individual request, the programme of their choice selected from the catalogue of programmes provided as part of such service;
- 9) “Provision of a media service” shall mean transmission of a programme service or provision of on-demand audiovisual media service to the general public;
- 10) “Social broadcaster” shall mean a broadcaster who:
  - a) in its programme service propagates learning and educational activities, promotes charitable activities, respects the Christian system of values, is being guided by the universal principles of ethics and strives to preserve national identity,
  - b) does not transmit programmes or other broadcasts referred to in Article 18 paragraph 5 within the programme service,
  - c) does not transmit commercial communications,

- d) does not charge any fees for transmission, retransmission or reception of its programme service;
- 11) “Foreign person” shall mean a foreign person as defined in Article 3 subparagraph 5 of the Act of 6 March 2018 on the Principles of Foreign Entrepreneurs and Other Foreign Persons’ Participation in Business in the Territory of the Republic of Poland;
  - 12) “Creative team” shall mean a team of persons who create programmes including, in particular: the director, script writer, set designer, operator, performers of lead characters and composer;
  - 13) “Thematic programme service” shall mean a programme service where at least 70% of the monthly transmission time during hours from 6 a.m. till 11 p.m. is devoted to programmes and other broadcasts in line with the main theme of the said programme service;
  - 14) “Programme originally produced in the Polish language” shall mean a programme which meets the criteria of “European programme” as defined in this Act, which has been produced on the basis of a script written originally in the Polish language and first registered in the Polish language;
  - 15) “Children’s programme” shall mean a programme which, in view of transmission hours and content, is addressed primarily at children;
  - 16) “Commercial communication” shall mean any broadcast, including images with or without sound or sounds only, which is designed to promote, directly or indirectly, the goods, services or reputation of an entity pursuing a business or professional activity, accompanying or included in a programme or user-created video, or incorporated therein, in return for payment of a fee or similar consideration or for self-promotional purposes, in particular advertising, sponsorship, teleshopping and product placement;
  - 17) “Advertising” shall mean a commercial communication originating from a public or private entity, in connection with its business or professional activity, aimed at promoting the sale or use of goods or services in return for payment; self-promotion shall also be a form of advertising;
  - 18) “Sponsorship” shall mean any contribution, by an entity not engaged in providing media services, video sharing platforms, user-created videos or in the production of programmes, to the financing of a media service, video sharing platform, programme or user-created video with a view to promote its name, business name, reputation, operations, product or service, trademark or any other proprietary identification;
  - 19) “Teleshopping” shall mean any commercial communication containing a direct offer of sale of products or supply of services in return for payment;
  - 20) “Surreptitious commercial communication” shall mean the representation of goods, services, the name, business name, the trademark or the business of an entrepreneur who is a manufacturer of goods or a provider of services in programmes when the intention of the media service provider, in particular related to consideration or another benefit, is to achieve an advertising effect and where the public might be misled as to the nature of the communication;
  - 21) “Product placement” shall mean a commercial communication presenting or referencing a product, service or the trademark thereof in such a way so that it is featured within a programme or user-created video, in return for payment of a fee or similar consideration, also in the form of a free-of-charge provision of a product or service;
  - 22) “Thematic placement” shall mean a commercial communication involving references to a product, service or the trademark thereof in a script or a dialogue list of a programme in return for payment of a fee or similar consideration;
  - 22a) “Video sharing platform” shall mean a service provided electronically within the frame of a business conducted for this purpose, where the principal purpose or function of the service or of a separable part thereof is to provide programmes, user-created videos or other content in order to inform, entertain or educate the general public, and for which the provider of the service has no editorial responsibility, but the provider decides about the pattern thereof, also automatically or through algorithms, in particular by displaying, flagging and sequencing;

- 22b) “User-generated video” shall mean a set of moving images with or without sound, constituting a separable whole, created by a user and uploaded to a video-sharing platform by that user or any other user;
- 22c) “Provider of a video sharing platform” shall mean a natural person, legal person or partnership that provides a video sharing platform;
- 22d) “User of a video sharing platform” shall mean a natural person, legal person or an organisational unit referred to in Article 33<sup>1</sup> § 1 of the (Polish) Civil Code who uses a video-sharing platform, in particular by having an account on the video-sharing platform, uploading or viewing programmes, videos or other broadcasts created by that user or other users;
- 23) “Self-promotion” shall mean every broadcast originating from a media service provider that is intended to directly or indirectly promote its programmes, goods or services;
- 24) “Teletext service” shall mean a set of texts and motionless images transmitted by means of a television or radio signal simultaneously with the programme service;
- 25) “Producer” shall mean a natural person, legal person or an organisational unit referred to in Article 33<sup>1</sup> § 1 of the (Polish) Civil Code, which initiates, actually organises and is responsible for the creative, organisational and financial process of producing audiovisual works;
- 26) “Producer independent of a given broadcaster” shall mean a producer who is not bound by employment relation with the given broadcaster, is not a broadcaster itself and holds no stake in the broadcaster’s organisation, and in which neither the broadcaster nor any of its subsidiaries nor any companies affiliated within the same group of companies hold a stake, and if members of its governing bodies are not bound by employment relation with the given broadcaster and are not broadcasters themselves;
- 27) “Entrepreneur” shall mean an entrepreneur as defined in the Act of 6 March 2018 - the Entrepreneurs’ Law (official journal “Dz.U.” of 2021, items 162 and 2105 and of 2022, items 24, 974 and 1570);
- 28) “Aids for People with Disabilities” shall mean an audio or graphic element in a programme or transmitted simultaneously with a programme, which is intended to ensure that people with a vision or hearing impairment are able to receive the programme, in particular through subtitling for the deaf or audio description as well as sign language interpretation;
- 29) “Information and communication technology system” shall mean an information and communication technology system as defined in the Act of 18 July 2002 on Provision of Services via Electronic Means (official journal “Dz.U.” of 2020, item 344);
- 30) “Telecommunications network” shall mean a telecommunications network as defined in the Act of 16 July 2004 – the Telecommunications Law (official journal “Dz.U.” of 2021, item 576, and of 2022, item 501).

## Chapter 2

### The National Broadcasting Council

**Article 5.** The National Broadcasting Council (*Polish: Krajowa Rada Radiofonii i Telewizji*) (hereinafter referred to as the “National Council”) shall hereby be established and shall constitute the state authority competent for radio and television broadcasting.

**Article 6.1.** The National Council shall safeguard the freedom of speech in radio and television broadcasting, protect the independence of media service providers and video sharing platforms providers and the interests of viewers, listeners and users and shall ensure an open and pluralistic radio and television.

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 the Act, the terms of operations of media service providers and video sharing platforms providers,
- 3) to make, within the scope set forth by the Act, decisions concerning broadcasting licences to transmit programme services, entry into the register of programme services, hereinafter the “register”, and keeping the register,
- 3a) to grant a broadcaster the status of a social broadcaster or to revoke such status, on terms laid down in the Act,
- 4) to supervise, within the limits specified in the Act, the operations of media service providers and video sharing platform providers,
- 5) to organise research into the content and audience of media services and video sharing platforms,
- 5a) keeping records of on-demand audiovisual media services and video sharing platforms,
- 6) to determine the value of fees for the award of broadcasting licences and registration,
- 6a) to determine the value of licence fees in accordance with the principles set forth in the Licence Fees Act of 21 April 2005 (official journal “Dz.U.” of 2020, item 1689),
- 8) to act as a consultative body in drafting legal instruments and international agreements related to radio and television broadcasting, on-demand audiovisual media services or video sharing platforms,
- 7a) (*expired*)
- 8) to initiate research and technical development and personnel training in the field of radio and television broadcasting,
- 9) to organise and initiate international co-operation in the field of radio and television broadcasting, including cooperation with regulatory bodies of Member States of the European Union competent for media services or video sharing platforms, the European Commission and to create and join agreements being developed within the European Regulators Group for Audiovisual Media Services (ERGA),
- 10) to co-operate with relevant organisations and institutions in the area of protection of copyrights and rights of performers, producers, media service providers, and video sharing platform providers,
- 11) (*repealed*)
- 12) to initiate and support self-regulation in the area of providing media services and video sharing platforms,
- 13) to promote media literacy (media education) and to cooperate with other state authorities, non-governmental organizations and other institutions in the area of media education,
- 14) to conduct research and evaluate progress of media education, including assessment of operations of media service providers and video sharing platform providers in this regard,
- 15) to act as a contact point for provision of information and receipt of complaints on issues relating to accessibility of media services for people with vision impairments and people with hearing impairments.

3. The National Council submits to the European Commission:

- 1) The list of media service providers and video sharing platform providers established in the territory of the Republic of Poland, referred to in Article 1a paragraph 7,
- 2) Report on media service providers’ compliance with the obligations referred to in Article 18a and Article 47g,
- 3) Report on media service providers’ compliance with the obligations referred to in Article 15 paragraph 3, Article 15a paragraph 1, Article 47f paragraph 2 of the Act and Article 19 paragraphs 3, 3a, 6a and 6b of the Act of 30 June 2005 on Cinematography (official journal “Dz.U.” of 2022, item 1066),

- 4) Report on the implementation, by providers of video sharing platforms, of countermeasures against publication of the content referred to in Article 47 paragraph 1,
- 5) Report on the progress of media education, including assessment of operations of media service providers and video sharing platform providers in this regard,

- within the time limits set forth in the Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities (OJ L 303, 28.11.2018, p. 69).

**Article 7.1.** The National Council shall consist of five members, of which 2 shall be appointed by the Sejm, 1 by the Senate and 2 by the President from amongst persons with a distinguished record of expertise and experience in mass communications.

2. (*expired*)

2a. (*repealed*)

2b. The Chairman of the National Council shall be elected by the National Council from amongst its members; the Chairman shall also be recalled by members of the National Council.

3. Upon a motion of the Chairman, the National Council shall elect the Vice-Chairman of the National Council from amongst its members.

4. The term of office of members of the National Council shall be six years starting from the day of the appointment of the last member. 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.

6. The body which is empowered to appoint a member of the National Council shall recall such member solely in the cases when the said person:

- 1) has resigned,
- 2) has become permanently unable to discharge of duties for reasons of ill health,
- 3) has been convicted of a deliberate criminal offence by a final and binding judgement,
- 3a) has submitted an untruthful screening statement, as confirmed by a final and binding ruling of the court,
- 4) has committed a breach of the provisions of the Act and the said breach has been confirmed by a ruling of the Tribunal of State.

7. In the case of a recalling or death of a member prior to the end of the term of office, the appropriate body shall appoint another member of the National Council for the remainder of the term of office.

**Article 8.1.** The employer of a member of the National Council shall, at the member's request, grant to such a member a leave of absence, without pay, for the time of holding an office. The time of the leave shall be accounted towards the duration of the member's employment, on the basis of which other benefits resulting from the relation of employment are granted.

2. (*repealed*)

3. During the term of office of members of the National Council, their membership in:

- 1) (*expired*)
- 2) governing bodies of associations, trade unions, employers' associations, as well as church or religious organisations shall be suspended.

4. It is inadmissible to combine the service as a member of the National Council with holding an interest or shares, or with any other involvement, in an entity which is a media service provider or a radio



or television producer, as well as with any other gainful employment, save for educational or academic positions of an academic tutor or lecturer or performing creative work.

**Article 9.1.** The National Council shall issue regulations and adopt resolutions on the basis of the existing legislation and for the purpose of their implementation.

2. The National Council shall adopt resolutions by a two-thirds majority of votes of the total number of its members specified in the Act.

3. The National Council shall adopt the internal rules of procedure binding upon the Council.

**Article 10.1.** The Chairman of the National Council shall direct its work, represent the Council and perform the tasks specified in the Act.

2. The Chairman of the National Council may require a media service provider or video sharing platform provider or an entity that introduces changes, modifications or other impairments of integrity of a media service, referred to in Article 44b, to provide materials, documentation and information to the extent necessary for the purpose of supervising the provider's compliance with the provisions of the Act, the terms of the broadcasting licence, the terms of service or self-regulatory instruments binding upon it.

3. The Chairman of the National Council may call upon a media service provider or video sharing platform provider or an entity that introduces change, modifications or other impairments of integrity of a media service, referred to in Article 44b, to cease practices in respect of provision of media services or video sharing platform, if they infringe the provisions of the Act, resolution of the National Council, the terms of the broadcasting licence or the terms of service.

4. Acting by virtue of the National Council's resolution, the Chairman of the National Council may issue a decision ordering the media service provider, video sharing platform provider or an entity that introduces changes, modifications or other impairments of integrity of a media service, referred to in Article 44b, to cease the practices as referred to in paragraph 3.

4a. The Chairman of the National Council may call upon the company, referred to in Article 26 paragraphs 2 and 3, to submit materials and documents and to provide explanations to the extent required for the assessment of the charter of responsibility within the scope as specified in Article 21b paragraph 7 and the report referred to in Article 31b paragraph 1.

5. Paragraphs 2 to 4 shall apply accordingly 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 May of each calendar year, the National Council shall submit to the Sejm, the Senate and the President an annual report on its activities during the preceding calendar 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. The resolution on acceptance of the report may contain remarks and reservations, and the resolution on rejection of the report must contain a statement of reasons.

4. In the case of rejection of the report by both the Sejm and the Senate, the term of office of all the members of the National Council shall expire within 14 days from the date of the last resolution to this effect, subject to the reservation contained in paragraph 5.

5. The National Council's term of office shall not expire unless so approved by the President of the Republic of Poland.

### Chapter 3

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

**Article 13.1.** A broadcaster shall enjoy full independence in determining the content of the programme service with a view to fulfilling the tasks referred to in Article 1 paragraph 1 and shall be responsible for its contents.

2. The provision of paragraph 1 shall not prejudice the provisions on third party liability for the content of particular programmes, advertising or other broadcasts.

**Article 14.1.** An obligation to transmit or to desist from transmitting a particular programme or broadcast may be imposed upon a broadcaster exclusively by virtue of a statutory act.

2. Programmes and broadcasts coming from a source other than the broadcaster shall be clearly marked as such and recognisably separate from the other items of the programme service, leaving no doubt as to their origin from a source other than the broadcaster.

**Article 14a.1.** The broadcaster shall ensure to viewers and/or listeners an easy, direct and permanent access to information that allows to identify the programme service and its broadcaster, in particular access to the following information:

- 1) the name of the programme service,
- 2) the last name, name or business name of its broadcaster,
- 2a) the first and last names of the members of the broadcaster's governing bodies,
- 3) the address of its registered office,
- 4) contact data, including mailing address, electronic mail address and website.

1a. The broadcaster conducting business in the form of a commercial company or partnership shall ensure to the viewers and/or listeners an easy, direct and permanent access to information on the first and last names or business names of:

- 1) partners - when the business is conducted in the form of a general partnership;
- 2) general partners - when the business is conducted in the form of a limited partnership;
- 3) general partners and shareholders whose shareholdings exceed 5% of the founding capital of the broadcaster - when the business is conducted in the form of a limited joint-stock partnership;
- 4) members whose shareholdings exceed 5% of the founding capital of the broadcaster - when the business is conducted in the form of a limited liability company;
- 5) shareholders whose shareholdings exceed 5% of the founding capital of the broadcaster - when the business is conducted in the form of a joint-stock company;
- 6) shareholders whose shareholdings exceed 5% of the share capital of the broadcaster - when the business is conducted in the form of a simple joint-stock company.

1b. The broadcaster shall ensure to the viewers and/or listeners an easy, direct and permanent access to data identifying the ultimate beneficial owners of a given broadcaster, disclosed in the Central Register of Beneficial Owners referred to in Article 55 of the Act of 1 March 2018 on the Prevention of Money Laundering and Terrorism Financing (official journal "Dz.U." of 2022, items 593, 655 and 835).

1c. The broadcaster shall ensure to the viewers and/or listeners an easy, direct and permanent access to the list of all the media services provided by it, its video sharing platforms and dailies or magazines published by it.

1d. The obligation referred to in paragraph 1c shall also cover media services, video sharing platforms and dailies or magazines supplied or published by entities belonging to the same group of companies as defined in Article 4 subparagraph 14 of the Act of 16 February 2007 on the Protection of Competition and Consumers (official journal “Dz.U.” of 2021, item 275).

1e. The information referred to in paragraphs 1a to 1d shall be published on the broadcaster’s website.

2. The broadcaster shall identify the National Council as the authority competent for radio and television broadcasting and provide the information that it is subject to the jurisdiction of the Republic of Poland.

3. The National Council may determine, by a regulation, how broadcasters may be required to provide access to information permitting identifying the programme service and its broadcaster as well as information other than listed in paragraph 1, taking into account the needs of viewers and/or listeners, integrity of broadcasts, the mode of transmitting the programme service and impact on the interests of viewers and/or listeners, striving not to impose upon providers any excessive burdens and costs in connection with provision of information.

**Article 15.1.** Television broadcasters shall reserve at least 33% of their quarterly transmission time for programmes originally produced in the Polish language, excluding news, advertising, teleshopping, sports events, teletext services and games.

2. Broadcasters of radio programme services, excluding programme services produced entirely in a language of a national or ethnic minority, or in a regional language as defined in Article 19 of the Act of 6 January 2005 on National and Ethnic Minorities and the Regional Language (official journal “Dz.U.” of 2017, item 823), shall reserve at least 33% of their monthly transmission time devoted to verbal-musical works for works performed in the Polish language, of which at least 60% during the hours from 5 a.m. to midnight (00:00).

2a. To determine transmission time during the hours from 5 a.m. to midnight (00:00), referred to in paragraph 2, the transmission time of a verbal-musical work performed in the Polish language by a debutant, broadcast during these hours, shall count as 200% of the transmission time of the work.

2b. A work performed by a debutant shall be deemed to mean a verbal-musical work performed in the Polish language that was transmitted in a radio programme service in a given settlement period, and the period that elapsed from the date of first transmission is shorter than 18 months, with the reservation that a debutant shall be deemed to mean exclusively an artist or a music band that, during the above-mentioned 18-month period, released for the first time an album with verbal-musical works or a single recording of a verbal-musical work.

3. Television broadcasters shall reserve more than 50% of their quarterly transmission time for European programmes, excluding news, advertising, teleshopping, sports events, teletext services and games.

3a. Upon request of a broadcaster of a programme service transmitted exclusively in an information and communication technology system, the Chairman of the National Council may, by a decision, determine a lower proportion of programmes referred to in paragraphs 1 and 3 in a television programme service taking into consideration the number of viewers and the coverage of the programme service as well as the ability to implement the obligations imposed upon the broadcaster.

3b. Article 33 paragraph 3 shall apply to the decision referred to in paragraph 3a.

4. The National Council shall determine, by a regulation, a lower proportion of the programmes referred to in paragraphs 1 and 3 in a television programme service, and of the works referred to in paragraph 2 in a radio programme service, for:

- 1) broadcasters during the first year of transmission of their programme service,
- 2) thematic programme services, for which the number of available programmes referred to in paragraphs 1 and 3, or works referred to in paragraph 2, is insufficient,

3) programme services in the case of which the issued broadcasting licence specifies that these programme services are intended for national or ethnic minorities and a community using a regional language,

4) (*repealed*)

- with due regard for the need to ensure that a proportion of programmes originally produced in the Polish language and of European programmes is maintained, as well as with due regard for the possibility to fulfil these obligations in given programme service categories.

**Article 15a.1.** Television broadcasters shall reserve at least 10% of their quarterly transmission time for European programmes produced by independent producers, excluding news, advertising, teleshopping, sports events, teletext services, and games.

2. Television broadcasters shall reserve at least 5% of their quarterly transmission time for European programmes produced by independent producers during the period of 5 years prior to transmission in the programme service, excluding news, advertising, teleshopping, sports events, teletext services, and games.

3. Television broadcasters of thematic programme services may be required to ensure the proportion of European programmes produced by independent producers during the period of 5 years prior to transmission in the programme service, which is lower than that stipulated in paragraph 2.

4. Television broadcasters shall keep records of the transmission time of the programmes referred to in paragraphs 1 and 2 and Article 15 paragraphs 1 and 3.

5. The records referred to in paragraph 4 shall not be kept by broadcasters of the programme services:

- 1) which were available to an audience of not more than 100 000 persons in the previous calendar year, and/or
- 2) whose average annual share of the audience in the previous calendar year did not exceed 0.3%, with the exception of programme services transmitted by public television broadcasting companies, and/or
- 3) transmitted exclusively in a language other than the official languages of the Member States of the European Union.

6. The National Council shall determine, by a regulation:

- 1) how the records referred to in paragraph 4 shall be kept by broadcasters of programme services,
- 2) the length of keeping the records referred to in paragraph 4 , which shall not be less than a year;
- 3) the scope of information to be included in the records referred to in paragraph 4 , which shall include information about the date of transmission of the programme,

the 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 information in the records, and refraining from imposing upon broadcasters any excessive burdens or costs related to keeping the records.

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

**Article 15b.1.** A programme shall be deemed to be a European programme, if it:

- 1) originates in a Member State of the European Union, or
- 2) originates in another state party to the European Convention on Transfrontier Television done in Strasbourg on 5 May 1989 (official journal "Dz.U." of 1995, item 160 and of 2004, item 250), hereinafter referred to as the "European Convention on Transfrontier Television", which does not apply discriminatory measures against any programmes originating in Member States of the European Union, or

- 3) was co-produced within the framework of an agreement related to the audiovisual sector executed between the European Union and other third state, and fulfils the requirements defined in the agreement, if this state does not apply discriminatory measures against any programmes originating in Member States of the European Union.

2. A programme originates in the states referred to in paragraph 1 subparagraphs 1 and 2, if the majority of the creative team members have their permanent residence in the territory of one of those states and provided at least one of the following conditions is met:

- 1) the programme is produced by a producer whose head office 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 head office is located in the state referred to in paragraph 1 subparagraphs 1 and 2,
- 3) the contribution of co-producers having a head office or permanent residence in the state referred to in paragraph 1 subparagraphs 1 and 2, to the total production costs of the programme is preponderant and the co-production is not under control of co-producers that do not have their head office or permanent residence in the state referred to in paragraph 1 subparagraphs 1 and 2.

3. *(repealed)*

4. A programme shall also be deemed to be a European programme, if it was made pursuant to bilateral co-production agreements executed by Member States of the European Union and third parties, and the contribution of co-producers having a head office 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 head office or permanent residence in the territory of the State referred to in paragraph 1 subparagraph 1.

5. *(repealed)*

**Article 16.1.** Commercial communications shall be readily recognizable.

2. Advertising and teleshopping shall be readily distinguishable from editorial content. Advertising and teleshopping shall be kept quite distinct from other parts of the programme service by visual, acoustic or spatial means.

3. The total advertising and teleshopping broadcasting time during the hourly span:

- 1) from 6 a.m. to 6 p.m. may not exceed 144 minutes;
- 2) from 6 p.m. to midnight may not exceed 72 minutes.

4. The limitation set out in paragraph 3 shall not apply to:

- 1) announcements by the broadcaster containing solely the information on its programmes or extracts of such programmes,
  - 1a) announcements by the broadcaster containing solely the information about media services or programmes transmitted as part of media services provided by entities belonging to the same group of companies as defined in Article 4 subparagraph 14 of the Act of 16 February 2007 on the Protection of Competition and Consumers;
- 2) announcements by the broadcaster containing solely information on ancillary products directly derived from the programme,
- 3) identification of commercial communications required by law, including separation of advertisements from programmes and other communications or identification of sponsors.

5. The announcements referred to in paragraph 4 subparagraphs 1 and 2 shall be broadcast between programmes.

6. Teleshopping windows shall be clearly identified as such by visual and acoustic means and shall be of a minimum uninterrupted duration of at least 15 minutes. The limit set out in paragraph 3 shall not apply to such windows.

7. The National Council shall determine, by a regulation, the manner in which advertising and teleshopping may be conducted in radio and television programme services, including:

- 1) the terms and conditions of broadcasting, including separation, marking and insertion of advertising and teleshopping in programme services,
- 2) the requirements with respect to persons whose voice or image is used in advertising, including the scope of limitation on their ability to host other programmes in radio and television programme services,
- 3) the extent to which a broadcaster may allot transmission time for advertising and teleshopping, including the maximum time allotted per annum for one business operator or business group,
- 4) the manner in which the broadcaster shall keep and store records of the duration of advertising and teleshopping broadcasts, and the scope of data to be included in the records,
- 5) detailed requirements for the broadcasters' announcements, referred to in paragraph 4 subparagraphs 1 and 2, and the manner of their identification and insertion in programme services,

- guided by the need to protect the interests of the audience and the independence of broadcasters, with due regard for the development of advertising techniques.

**Article 16a.1.** Advertising and teleshopping inserted during programmes shall not impair the integrity of the programmes, taking into account the natural breaks in and the duration and the nature of the programme concerned, nor the rights of the right holders to the programme.

2. During coverage of sports events containing mandated intervals and of other events containing intervals, advertising or teleshopping shall be inserted in the said intervals only.

2a. It is permitted to interrupt the transmission of a sports event in order to broadcast a single advertisement.

3. Films made for television, excluding series, serials and documentaries, and cinematographic films may be interrupted by advertising or teleshopping only once per each scheduled period of full 45 minutes.

4. Programmes other than those specified in paragraph 2 may be interrupted by advertising or teleshopping if a period of at least 20 minute in a television programme service and at least 10 minutes in a radio programme service has elapsed between each successive break in the programme.

5. Any advertising or teleshopping inserted during a programme shall be deemed to be an interruption of a programme.

6. The following programmes may not be interrupted by advertising or teleshopping:

- 1) news programmes,
- 2) programmes with a religious content,
- 3) commentaries and documentaries, the duration of which is less than 30 minutes,
- 4) children's programmes.

6a. It is permitted to interrupt a film that is a children's programme lasting more than one hour in order to broadcast advertising.

7. Programmes in a public radio and television programme service, with the exception of programmes referred to in paragraph 2, shall not be interrupted by advertising or teleshopping.

**Article 16b.1.** It is not permitted to broadcast commercial communications for following goods and services:

- 1) tobacco products, tobacco accessories, products imitating tobacco products or accessories and symbols related to the use of tobacco, electronic cigarettes and refill containers to the extent regulated in the

Act of 9 November 1995 on Protection of Health Against the Effects of Use of Tobacco and Tobacco Products (official journal “Dz.U.” of 2021, item 276);

- 2) alcoholic beverages, to the extent regulated in the Act of 26 October 1982 on Upbringing in Sobriety and Counteracting Alcoholism (official journal “Dz.U.” of 2021, items 1119 and 2469 and of 2022, items 24 and 218);
- 3) health benefits as defined in regulations on medical treatments provided only on a medical prescription;
- 4) medicinal products, to the extent regulated in the Act of 6 September 2001 – Pharmaceutical Law (official journal “Dz.U.” of 2021, No. 1977, item 2120 and of 2022, items 830, 974, 1095 and 1344);
- 5) cylindrical games, card games, dice, mutual bets, slot machines, to the extent regulated in the Gambling Act of 19 November 2009 (official journal “Dz.U.” of 2022, items 888 and 1301);
- 6) psychoactive drugs or narcotic drugs and foods or other products, to the extent regulated in the Act of 29 July 2005 on Counteracting Drug Addiction (official journal “Dz.U.” of 2020, item 2050 and of 2021, item 2469 and of 2022, items 763 and 764);
- 7) solariums services to the extent regulated in the Act of 15 September 2017 on the Protection of Health Against the Consequences of Solariums Use (official journal “Dz.U.”, item 2111).

2. It shall be prohibited to broadcast commercial communications that:

- 1) directly exhort minors to purchase products or services,
- 2) encourage minors to exert pressure upon their parents or other persons to persuade them to purchase the products or services being advertised,
- 3) exploit the trust minors place in parents, teachers or other persons,
- 4) unreasonably show minors in dangerous situations,
- 5) are of a subliminal nature.

3. Commercial communications shall not:

- 1) violate human dignity,
- 2) include any discriminatory content on grounds of race, gender, nationality, ethnic origin, religion or belief, disability, age or sexual orientation,
- 3) be offensive to religious or political beliefs,
- 4) prejudice the physical, mental or moral development of minors,
- 5) encourage behaviour prejudicial to health, safety or environmental protection.

3a. Children’s programmes shall not be accompanied by commercial communications for foods or beverages containing ingredients, the excessive intakes of which in the everyday diet are not recommended.

3b. After seeking opinion of the minister in charge of health, the National Council may determine, by a regulation:

- 1) the types of foods or beverages containing ingredients, the excessive intakes of which in the everyday diet are not recommended,
- 2) the manner of inserting commercial communications for these products in programme services so that they do not accompany children’s programmes,

- in an effort to encourage broadcasters to counteract promoting unhealthy diet among children and taking into account the nature of programme services, their impact on public opinion and interests of the audience, without imposing unreasonable obligations on broadcasters.

4. (*repealed*)

**Article 16c.** The following shall be prohibited:

- 1) surreptitious commercial communications,
- 2) (*repealed*)
- 3) thematic placement.

**Article 17.1.** Viewers and/or listeners shall be clearly informed about sponsoring. Sponsored programmes or other communications shall be identified as such by sponsor credits at the start of the programme, when the programme is resumed after an advertising or teleshopping break and at the end of the sponsored programme or other communication. Sponsor credits may specify only the sponsor's name, business name, trademark or contain some other identification of the business operator or its business operations, a reference to its products, services or their trademark.

1a. The sponsor credits and any element of that identification shall not directly encourage the purchase or rental of products or services, in particular by making a specific promotional reference to them.

2. Sponsor credits may not contain the name, business name, trademark or other individual identification of the business operator or its business operations, the image of a product or service, the advertising of which is prohibited under Article 16b paragraph 1.

3. A sponsor may not influence the content of the programme or any other broadcast and their scheduling in a manner which would prejudice the autonomy and editorial independence of the broadcaster. Sponsorship shall not release the broadcaster from liability for the content of the programme.

4. Sponsored programmes or other broadcasts may not encourage the purchase or other use of the products or services of the sponsor or a third party.

5. Subject to the reservations contained in paragraph 6, programmes or other broadcasts may not be sponsored by:

- 1) political parties,
- 2) trade unions,
- 3) employers' organisations,
- 4) natural or legal persons whose principal operations consist 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 to 3 and by business operators whose principal operations consist in the production, sale or other form of supply of products or services, the advertising of which is prohibited under Article 16b paragraph 1, subparagraphs 1 and 2, subject to the stipulations of Article 13<sup>1</sup> paragraphs 5 and 6, of the Act on Upbringing in Sobriety and Counteracting Alcoholism.

6a. Sponsorship of programmes or other broadcasts by entities that pursue business in the area of cylindrical games, card games, dice, mutual betting and slot machines shall be prohibited.

7. Sponsorship of the following programmes shall be prohibited:

- 1) news, with the exception of sports and weather forecasts,
- 2) commentaries on social and political topics,
- 3) programmes on consumer affairs,
- 4) electoral programmes or programmes directly related to electoral campaign.

8. The National Council shall determine, by a regulation, the manner in which programmes or other broadcasts may be sponsored, having regard for the provisions of paragraphs 1 to 7, in particular the time of the broadcast, sponsor credits and manner of transmission of information about the sponsor in the opening announcement or trailer of the programme or following the end of the programme or other broadcast, as well as during the programme or other broadcast. In the said regulation, the National Council shall determine the manner in which the broadcaster shall keep and store a record of sponsored programmes or other broadcasts and the scope of information to be included in the records.



**Article 17a.1.** Product placement shall be admissible in all programmes with the exception of:

- 1) news, except for sports and weather forecasts,
- 2) current affairs programmes on social and political topics,
- 3) programmes on consumer affairs,
- 4) programmes with a religious content,
- 5) children's programmes.

2. Programmes that contain product placement shall be identified with a graphic sign in television programme services and with an acoustic signal in radio programme services, informing about product placement at the start and the end of the programme and when a programme resumes after an advertising or teleshopping break.

3. Neutral information on the producer or seller of the placed product or an entity providing the placed service as well as on the product or the service shall be inserted at the end of the programme referred to in paragraph 2, produced with the contribution of a broadcaster or commissioned by the broadcaster.

4. Product placement shall not prejudice the autonomy and editorial independence of the broadcaster through its impact on contents or scheduling of the programme in the programme service and shall not release the broadcaster from the liability for contents of the programme.

5. Programmes that contain product placement shall not:

- 1) give undue prominence to the product in question,
- 2) directly encourage the purchase or rental of goods or services, in particular by making promotional references to those goods or services.

6. Product placement of goods and services referred to in Article 16b paragraph 1 shall be prohibited.

7. The broadcaster shall keep and store a register of programmes that contain product placement.

8. To the extent required to control the compliance of the broadcaster's operations with the provisions of paragraphs 1 to 7, the Chairman of the National Council may request the broadcaster to submit documentation related to product placement. The provision of Article 10 paragraph 2 shall apply accordingly.

9. The National Council shall determine, by a regulation:

- 1) the detailed conditions of marking of programmes that contain product placement by the broadcaster, including the specimen of the graphic sign and form of the acoustic signal referred to in paragraph 2;
- 2) the manner of keeping and storing the register of programmes that contain product placement by the broadcaster, and the scope of data subject to registration,

- taking into account the interests of the audience and capabilities of broadcasters to keep the register in an electronic format, without imposing excessive burdens and costs on the broadcasters.

**Article 18.1.** Programmes or other broadcasts may not promote actions contrary to law and Poland's *raison d'Etat* or propagate attitudes and beliefs contrary to the moral values and social good; in particular, programmes or other broadcasts may not include contents inciting to hatred or violence or contents which are discriminatory on grounds of gender, race, colour of skin, ethnic or social origin, genetic features, language, religion or belief, political views or any other opinions, nationality, membership of a national minority, wealth, birth, disability, age or sexual orientation or incitement to commit a terrorist offence.

2. Programmes or other broadcasts shall respect the religious beliefs of viewers and/or listeners, particularly the Christian system of values.

3. Programmes or other broadcasts may not encourage conduct which is prejudicial to health, safety or the natural environment.

4. Transmission of programmes or other broadcasts prejudicial to physical, mental or moral development of minors, in particular those containing pornographic content 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 during hours from 11 p.m. to 6 a.m.

5a. Broadcasters shall classify and mark programmes or other broadcasts referred to in paragraph 5 with:

- 1) an appropriate graphic symbol indicating that the content may have an adverse impact upon a healthy physical, mental or moral development of minors, throughout their duration in the television programme service; and
- 2) an appropriate graphic symbol indicating that the content may have an adverse impact upon a healthy physical, mental or moral development of minors, before their broadcast in the television programme service or at the start thereof; or
- 3) a verbal announcement informing the audience of the hazards in the content of the radio broadcast.

5b. Broadcasters shall classify and mark programmes and broadcasts other than those referred to in paragraph 5, excluding news, advertising, teleshopping, sports events, and teletext services:

- 1) with an appropriate graphic symbol throughout their duration in the television programme service, indicating whether the content may have an adverse impact upon a healthy physical, mental or moral development of minors; and
- 2) if they contain content that may have an adverse impact upon a healthy physical, mental or moral development of minors, with an appropriate graphic symbol depicting the type of such content, before their broadcast in the television programme service or at the start thereof;

- with due regard for the degree of harmful effect of the given programme or broadcast upon minors in a particular age group.

6. The National Council shall determine, by a regulation:

- 1) features of programmes and the 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 the detailed criteria for classification and transmission of programmes and other broadcasts referred to in paragraph 5b, with due regard for the hours of transmission of programmes or other broadcasts intended for a given age group,
- 3) specimens of graphic symbols and forms of announcements referred to in paragraphs 5a and 5b, and the manner of their presentation,

- with due regard for the type of content that may have an adverse impact upon a healthy physical, mental or moral development of minors, technical feasibility of providing the audience with information about the transmitted content and the extent of harmfulness of the programmes for minors in the various age categories.

7. Broadcasters shall ensure correctness of the Polish language in their programme services and shall counteract its vulgarisation.

8. Personal data of minors collected or otherwise generated by broadcasters in connection with the technical safeguards or other appropriate measures designed to protect minors against content that may have an adverse effect on their healthy physical, mental or moral development may not be processed for commercial purposes, such as direct marketing, profiling, behaviourally-targeted advertising or other forms of commercial broadcasts addressed to an audience group of the broadcaster's choice, and used for these purposes in the provision of this service, other media services or video-sharing platforms.

**Article 18a.1.** Broadcasters of television programme services shall ensure accessibility of programmes for visually impaired persons and hearing impaired persons by introducing appropriate aids for people with disabilities, so that such aids are provided during at least 50% of the quarterly transmission

time of the programme service, with the exception of advertising and teleshopping. Broadcasters shall inform the National Council and the audience of the date, time of broadcast and duration of a programme with aids for people with disabilities and the nature of those aids.

1a. Broadcasters of television programme services shall ensure that information about emergencies, including public communications and announcements on natural disasters, are transmitted with aids for people with disabilities, unless it was not possible to transmit the said information with such aids.

1b. Broadcasters of television programme services shall submit annual reports to the National Council, by 31 March of a given calendar year, on compliance with the duties referred to in paragraph 1 for the past calendar year.

2. The National Council shall determine, by a regulation:

- 1) The types of aids for people with disabilities and the proportion of individual types of these aids to the total broadcasting time depending on the time of broadcast, the nature and the type of programme service, with due regard for the needs of visually impaired persons and hearing impaired persons and the broadcasters' capacity in this regard, as well as developments in broadcasting techniques and aids for people with disabilities;
- 2) The type of programme services in which broadcasters are not required to provide aids for people with disabilities, with due regard for the number of inhabitants in the coverage area of the programme service;
- 3) Proportion of programmes with aids for people with disabilities in the television programme service lower than that set out in paragraph 1, with due regard for the number of inhabitants in the coverage area of the programme service, the share of the programme service in terms of the audience, the types of aids for people with disabilities, the mode of transmission and thematic nature of the programme service, taking into account the needs of the audience and the broadcasters' capacity;
- 4) The mode of informing the National Council and the viewers and/or listeners of the date, time of broadcast and duration of a programme with aids for people with disabilities and the type of those aids, with due regard for the needs of the audience, including visually impaired persons and hearing impaired persons and broadcasters' capacity.

**Article 19.1.** Broadcasters' operations consisting in producing and organising programme services shall be carried out in the form of editorial activity as defined in the press law.

2. The provisions concerning the production and transmission of radio and television programme services shall apply accordingly 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 the transmission of the programme, advertising or other broadcast. After the lapse of that period, recordings of programmes, advertising or other broadcasts which are subject to proceedings before public authorities shall be stored until the end of such proceedings.

1a. Upon request of the Chairman of the National Council, an operator that retransmits a programme service shall record the programme service identified in the request for the specified period, not longer than 14 days, and shall forthwith provide the recording thereof.

2. Recordings of a programme, advertising or other broadcast 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 the recording of a programme, advertising or other broadcasts available be rejected, the person referred to in paragraph 2 may seek a court injunction against the broadcaster to make such a recording available; the district court shall be the court of law that has a proper jurisdiction over such cases.

4. The National Council shall determine, by a regulation, the manner of recording and storing, by broadcasters, the programmes, advertising and other broadcasts, including the scope of data to be provided about the stored materials.

**Article 20a.1.** At the written request of the President of the Office for Competition and Consumer Protection, the broadcaster shall:

- 1) disclose the data that allows to identify the person who commissioned a programme or commercial communication,
- 2) deliver, free of charge, the recording of the programme or commercial communication within 7 days from the date of the request.

2. The provision of Article 20 paragraph 3 shall apply accordingly.

**Article 20b.1.** A television broadcaster may broadcast live coverage of an event of major importance for society, hereinafter referred to as a “major event”, only:

- 1) in a national programme service as defined in the Act or in the broadcasting licence, accessible entirely free of charge, excluding licence fees as defined in the Licence Fees Act of 21 April 2005 and basic fees charged by cable network operators; or
- 2) if the same event is also being transmitted by the broadcaster of a programme service which meets 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 Cup and European Football Championship, as well as all other matches within those events with the participation of the Polish national team, including qualifying games,
- 3) other football matches with the participation of the Polish national team in official tournaments and matches with the participation of Polish clubs within the Champions League and UEFA Cup.

3. The National Council may specify, by a regulation, a list of major events other than those listed in paragraph 2, having regard to the degree of social interest in the given event and its significance to social, economic and political life.

4. Should a major event be expected to be organised in parts, each of those parts shall be deemed to be 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 midnight 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 execute a contract providing for 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 by other European states as being of major importance for the society,
- 2) the 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 viewers in a given state of the possibility of viewing those events under the rules laid down by the given state in accordance with the provisions of international law.

**Article 20c.1.** A broadcaster of a television programme service who has the exclusive right to transmit an event of high interest to the public, hereinafter the “event”, shall enable other television broadcasters to exercise the right to a short news report.

2. The right to a short news report shall be vested with any broadcaster established in:

- 1) the Republic of Poland,
- 2) another Member State of the European Union or a state which is a party to the European Convention on Transfrontier Television, unless another broadcaster or entity in the state in which the broadcaster seeking access is established has the right to transmit the event and may ensure access to a short news report on the event.

3. The exercise of the right to a short news report shall be enabled by providing, to the requesting broadcaster, of access to short excerpts from the transmitted event, as selected by the said broadcaster, of an aggregate duration not exceeding 90 seconds, from the signal of the broadcaster referred to in paragraph 1, against payment of costs of provision of such access.

4. The broadcaster who exercises the right to a short news report may broadcast the excerpts made accessible to it pursuant to paragraph 3, within 24 hours, in general news programmes or accompanying sports news services, three times in a given programme service, in the form of a short information on the event not exceeding 90 seconds, provided that the source is clearly identified.

5. The broadcaster referred to in paragraph 1 shall be released from the obligation to enable the exercise of the right to a short news report in a mode specified in paragraph 3 if the broadcaster seeking to exercise that right may enter the venue of the event itself and prepare its own report. The provision of paragraph 4 shall apply accordingly.

6. Contractual arrangements preventing the exercise of the right to a short news report in accordance with paragraphs 1 to 4 shall be invalid.

## Chapter 4

### Public Radio and Television

**Article 21.1.** Public radio and television shall carry out their public service remit by providing, on terms laid down in this Act, to the entire society and the individual groups thereof, of 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, with high quality and integrity of the broadcasts.

1a. The tasks of public radio and television, resulting from their public service remit 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 that meet democratic, social and cultural needs of local societies;
- 2) production and transmission of thematic programme services, as defined in the Act or the charter of responsibility;
- 2a) production and transmission of audio, audiovisual and text services other than programme services, relating to, expanding, extending or enriching the programme services, via telecommunications networks, which meet the democratic, social and cultural needs of the society, including on-demand audiovisual media services;
- 2b) developing contacts with the audience of the programme services referred to in subparagraphs 1 and 2 and the services referred to in subparagraph 2a, also by means of communication over distance;

- 3) construction or operation of radio or television transmitter stations and broadcast relay stations and other facilities for the provision of the programme services referred to in subparagraphs 1 and 2 and the services referred to in subparagraph 2a, and developing contacts in accordance with subparagraph 2b;
- 4) *(repealed)*
- 5) working on new techniques of production and transmission of radio or television programme services, creation and delivery of services referred to in subparagraph 2a, and developing contacts in accordance with subparagraph 2b, as well as promoting the use of those techniques;
- 6) activities involving acquisition, preparation, production and/or co-production of programmes and other materials for the programme services referred to in subparagraphs 1 and 2 and the services referred to in subparagraph 2a;
- 6a) activities involving preservation, protection, conservation and supplementing the collections of programmes and other materials acquired or produced for the programme services referred to in subparagraphs 1 and 2 and the services referred to in subparagraph 2a;
- 7) encouraging artistic, literary, scientific and educational and sport activities;
- 8) dissemination of knowledge of Polish language;
- 8a) paying due regard to the needs of national and ethnic minorities and communities speaking a regional language, including broadcasting news programmes in the languages of national and ethnic minorities and in regional languages;
- 9) production and transmission of programme services and creation and provision of services, referred to in subparagraph 2a, which serve the purpose of presentation of the Republic of Poland, its language, history or culture abroad, also for Polish communities and Poles living abroad, or contributing to the creation, transmission or provision of such programme services or services;
- 10) ensuring accessibility of programme services or parts thereof as well as of other services for visually impaired persons and hearing impaired persons;
- 11) promotion of media education.

1b. When implementing the tasks referred to in paragraph 1a, public radio and television broadcasting companies may use various means of providing media and other services as well as means of communication over distance, including information and communication technology systems, to ensure the widest possible access to media and other services and communication with the public.

2. As part of the public service remit, programmer services and other services of public radio and television should:

- 1) be guided by the sense of responsibility for the content of the message and by the need to protect the good reputation of public radio and television,
- 2) provide reliable information about the vast diversity of events and processes taking place in Poland and abroad,
- 3) encourage an unconstrained development of citizens' views and emergence of 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,
- 5a) foster social integration and counteract social exclusion;
- 6) respect the Christian system of values, being guided by the universal principles of ethics,
- 7) serve to strengthen the family ties,
- 7a) advance the propagation of pro-health attitude,
- 7b) serve to promote and popularize sport,

- 8) contribute to combating social pathologies,
- 9) *(repealed)*
- 10) contribute to media education.

3. *(repealed)*

4. *(repealed)*

**Article 21a.1.** Without prejudice to institutional autonomy, freedom of programming and editorial independence of public radio and television broadcasting companies, the mode of fulfilment of the public service remit referred to in Article 21 paragraph 1 and the detailed scope of the responsibilities arising from that public service remit, with an indication of the manner of financing during the period of the following five calendar years shall be specified in the charter of responsibility.

2. The charter of responsibility shall define the following for public radio and television broadcasting companies:

- 1) programme services referred to in article 21 paragraph 1a subparagraph 1 and 2,
- 2) services referred to in article 21 paragraph 1a subparagraph 2a,
- 3) manner of implementing tasks referred to in Article 21 paragraph 1a subparagraph 2b-11, and responsibilities referred to in Article 21 paragraph 2,
- 4) guidelines on how to use the surplus referred to in Article 31 paragraph 7,
- 5) minimum proportions of programmes or works referred to in Article 15 paragraphs 1 to 3 and Article 15a paragraph 1 during the transmission time of each of the programme services at levels not lower than those laid down in these provisions,
- 6) the minimum proportions of the main categories of programmes in each of the programme services, to the extent relevant to the nature of the programme service concerned, and the way in which they are offered in other media services of the public radio and television broadcasting company concerned,
- 7) minimum proportions of aids referred to in Article 18a paragraph 1 provided during the transmission time of each of the programme services, if they are higher than those laid down in this provision,
- 8) the means of promoting programmes and works referred to in Article 15 paragraphs 1 to 3 and Article 15a paragraph 1 in services of a given public radio and television broadcasting company, other than programme services,

- with an indication of the estimated costs of implementing the particular tasks and the sources of their financing.

3. The charter of responsibility also lays down the general rules of operations which do not fall under the scope of public service remit referred to in Article 21 paragraph 1 and specifies the main types of such operations.

4. The methods of assigning revenues and the associated costs to the operations referred to in Article 21 paragraph 1 and to other operations shall be laid down in an appendix to the charter of responsibility.

5. The charter of responsibility shall be established on the basis of an agreement between public radio and television broadcasting company and the Chairman of the National Council acting on the basis of a resolution of the National Council.

6. The public radio and television broadcasting company shall submit a draft charter of responsibility together with the statement of reasons to the National Council by 30 April of the calendar year preceding the first year to be covered by the charter.

7. The National Council shall publish the draft charter of responsibility submitted by the public radio and television broadcasting company on its website within 7 days of its receipt. Comments can be submitted to the draft charter of responsibility, as part of an open public consultation, within 30 days of its publication by the National Council. Once the public consultations are completed, the National Council shall publish on its website a report with the results thereof.

8. The National Council shall conduct consultations with the public radio and television broadcasting company on the draft charter of responsibility and as part of this process the public radio and television broadcasting company may submit its comments on it.

9. Prior to adopting a resolution in which the execution of an agreement with a public radio and television broadcasting company is either authorised or rejected, the National Council shall assess the compliance of the draft charter of responsibility with the principles of public service remit referred to in Article 21 paragraph 1. The resolution of the National Council shall contain a statement of reasons.

10. On the basis of the resolution in which the execution of an agreement is authorised, by 30th November of the calendar year preceding the first year covered by the charter in question, the Chairman of the National Council shall execute an agreement with the public radio and television broadcasting company on drafting of the charter of duties.

11. National Council and the respective public radio and television broadcasting company shall publish the agreed charter of responsibility on their websites.

12. The charter of responsibility may be modified on the basis of an agreement between public radio and television broadcasting company and the Chairman of the National Council acting on the basis of a resolution of the National Council. Paragraphs 6 to 11 shall apply accordingly, with the exception of the time limits set out in paragraphs 6 and 10. The agreement shall be executed within 30 days of the completion of the consultations referred to in paragraph 7.

13. The National Council shall define, by a regulation, the detailed procedure of reaching agreement on the charter of responsibility, with due regard for the need to guarantee a transparent and efficient process of reaching the agreement and considering the need to pursue the public service remit referred to in Article 21 paragraph 1 by public radio and television broadcasting companies as well as having regard for their freedom to determine the contents of programme services and other services.

**Article 21b.1.** The provision of a new major service by a public radio and television broadcasting company as part of its public service remit requires the said service to be covered by the charter of responsibility.

2. A new major service is a service referred to in Article 21 paragraph 1a subparagraphs 1 to 2a, which is fundamentally different from the services already offered, and the total planned cost of which, in the first full calendar year of its provision, is higher than 3% of the planned annual costs of the public service remit referred to in Article 21 paragraph 1 of the respective public radio and television broadcasting company for that period.

3. If the total planned cost of providing a new major service in the first full calendar year of its provision is less than 3% but more than 2% of the planned annual costs of the public service remit referred to in Article 21 paragraph 1 by the respective public radio and television broadcasting company for that period, it shall inform the National Council of the proportion of the total planned cost of providing that service to the planned annual costs of the public service remit of that company in each year of the first three full calendar years. The said service shall be deemed to be a new major service, if the total planned cost of providing this service in one year out of the first three full calendar years is higher than 3% of the planned annual costs of the public service remit of the public radio and television broadcasting company in the same calendar year.

4. A new major service shall also be deemed to be a fundamental change to the service previously offered, insofar as this change leads to a fundamentally different service from the one previously offered and the total cost in the first full calendar year of providing the changed service is higher than 3% of the planned annual costs of the public service remit as referred to in Article 21 para 1 by the respective public radio and television broadcasting company for that period. Paragraph 3 shall apply accordingly, except that the total cost of the change shall be taken into account during the periods referred to in paragraph 3.

5. A new major service shall specifically be deemed not to include the following services that fulfil the criteria set out in paragraph 2 or changes to services referred to in paragraph 4:

- 1) transmission, retransmission or providing access to existing programme services or other services previously offered, which are covered by the charter of responsibility, via telecommunications networks or access platforms other than the ones used so far or with the use of new technologies;



- 2) teletext and audio communications in programme services which are covered by the charter of responsibility, or aids for people with disabilities, referred to in Article 18a paragraph 1, Article 21 paragraph 1a subparagraph 10 and Article 47g;
- 3) sites accessible via information and communication technology systems, devoted to specific programme services covered by the charter of responsibility, programme cycles, series, serials or programme transmitted in such programme services, including sites expanding the content of the programme service;
- 4) experimental services with a restricted scope provided for the purpose of testing new innovative services by verifying their feasibility and value, for a period not longer than 12 months;
- 5) periodic services offered for the duration of social significance of an event, not longer than 12 months, related to major cultural events and historical anniversaries or arising from the need to secure public safety in circumstances such as the occurrence of natural disasters, major hazards to the environment or public health, acts of terrorism or acts of war;
- 6) transmission of a programme service for viewers and/or listeners abroad, if it is not simultaneously available in the area of the Republic of Poland.

6. Prior to the commencement of the provision of the services referred to in paragraph 5 subparagraph 4 or 5, the public radio and television broadcasting company shall notify the National Council thereof.

7. If the draft charter of responsibility or its modification includes a new major service provided by a public radio and television broadcasting company, prior to adopting a resolution in which the execution of an agreement referred to in Article 21a paragraph 10 is authorised, the National Council shall:

- 1) assess the value of the new major service for the democratic, social and cultural needs of society and media pluralism, hereinafter referred to as “public value”;
- 2) analyse the impact of a new major service on competition in the relevant market referred to in Article 4 paragraph 9 of the Act of 16 February 2007 on the Protection of Competition and Consumers, hereinafter referred to as the “market impact”.

8. A draft charter or a modification involving a new major service shall include a description of the service and an analysis of its anticipated public value and market impact.

9. If the draft charter of responsibility has deficiencies in the scope specified in paragraph 8, the Chairman of the National Council shall request the public radio and television broadcasting company to remedy the deficiencies within a time limit of 21 days.

10. The National Council shall adopt a resolution refusing to authorise the execution of an agreement concerning the charter of responsibility or a modification thereof pertaining to the provision of a new major service, if the service does not have a sufficient public value taking into account its market impact. The resolution of the National Council shall contain a statement of reasons.

11. If a public radio and television broadcasting company offers a new major service not covered by the charter of responsibility, in particular services, the cost of which is higher than 3% of the planned annual costs of the public service remit referred to in Article 21 paragraph 1 by the public radio and television broadcasting company concerned, and the services referred to in paragraph 5 subparagraphs 4 and 5, after the expiry of the deadlines specified therein, the Chairman of the National Council shall call upon the said public radio and television broadcasting company to submit a draft modification to the charter of responsibility concerning the service in question within a time limit of 30 days from the date of service of the call or to discontinue offering the service.

12. If the public radio and television broadcasting company fails to comply with the call referred to in paragraph 11, or refuses to execute the agreement on modification the charter of responsibility, the Chairman of the National Council shall issue a decision imposing upon the public radio and television broadcasting company concerned an order to cease offering the service referred to in paragraph 11 as part of the public service remit referred to in Article 21 paragraph 1.

13. The National Council shall determine, by a regulation, the detailed requirements to be fulfilled by the charter of responsibility pertaining to the description of a new major service, analysis of the public value

and the market impact of this service, with due regard for the need to guarantee transparency and completeness of information, necessary for the analysis of the public value and the market impact of such services, the need to guarantee transparency and innovation in the operations of public radio and television broadcasting companies and the necessity to avoid an excessive burden of obligations to be imposed upon these companies.

**Article 21c.1.** Not later than by 31 May of each calendar year, public radio and television broadcasting company develops and submit to the National Council a draft programme and financial plan of the projects specified in the charter of responsibility and relating to the performance of the tasks referred to in Article 21 paragraph 1a in the following calendar year.

2. By 15 December of each calendar year the National Council shall adopt a resolution on approval or refusal to approve the plan referred to in paragraph 1. Prior to adopting a resolution, the National Council shall conduct consultations with public radio and television broadcasting companies, whereby the National Council may request the public radio and television broadcasting companies to clarify, expand or modify the plan to the extent required under the law or the charter of responsibility.

3. In the event of a significant change in circumstances, in particular change in the charter of responsibility, the plan referred to in paragraph 1 may be modified during the period of its validity. Paragraphs 1 and 2 shall apply accordingly.

4. The National Council shall define, by a regulation, the detailed scope of programme and financial plans and the procedure of reaching agreement on those plans, with due regard for the need to guarantee a transparent and efficient process of reaching the agreement and considering the need to pursue the public service remit referred to in Article 21 paragraph 1 by public radio and television broadcasting companies as well as having regard for their freedom to determine the contents of programme services and other services.

**Article 21d.1.** If no agreement is reached on the charter of responsibility, the validity of the previous charter of responsibility shall be extended until an agreement is reached.

2. In the event referred to in paragraph 1, the plan referred to in Article 21c paragraph 1 may not provide for revenues from the sources referred to in Article 31 paragraph 1 subparagraph 1 and paragraph 2 in excess of the financing from those sources provided for in the plan for the previous calendar year.

**Article 22.1.** State authorities may take decisions concerning the functioning of public radio and television broadcasting companies only in circumstances specified in the existing legislation.

2. Public radio and television broadcasting companies 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 companies shall permit political parties to present their position with regard to major public issues.

2. The rights specified in 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 companies shall enable public benefit organisations referred to in the Act of 24 April 2003 on Public Benefit and Volunteer Work (official journal "Dz.U." of 2022, items 1327 and 1265) to inform, free of charge, about the activities conducted for free by these organisations.

2. Paragraph 1 shall not in any way exclude the broadcaster's right to provide more extensive information about the activities of public benefit organisations.

3. Acting in agreement with the minister in charge of social security, the National Council shall determine, by a regulation, the procedure of action in respect of informing, free of charge, about public benefit activities conducted for free by public benefit organisations, including the manner of preparing and

broadcasting programmes as well as their intended transmission time, having regard to the diversity of public tasks defined in Article 4 of the Act on Public Benefit and Volunteer Work and to their significance for the community.

**Article 24.1.** Entities participating in elections to the Sejm, the Senate, the local self-government and the European Parliament shall be entitled to transmit election programmes in the public radio and television programme services on terms determined in separate provisions.

2. Paragraph 1 shall apply accordingly to the election of the President of the Republic of Poland.

3. Entities entitled to take part in a referendum campaign launched in the radio and television programme services as defined in Article 48 paragraph 1 of the Act of 14 March 2003 on Nationwide Referendum (official journal “Dz.U.” of 2020, item 851) shall be enabled to transmit referendum programmes in public radio and television programme service on terms laid down in separate provisions.

**Article 25.1.** Public radio and television broadcasting companies:

- 1) using all means available, produce programme services in the Polish language for viewers and/or listeners abroad,
- 2) using all means available, transmit programme services in the Polish language for viewers and/or listeners abroad,
- 3) transmit programme services for viewers and/or listeners abroad in languages other than the Polish language,
- 4) may produce programme services for viewers and/or listeners abroad in languages other than the Polish language.

1a. Public radio and television broadcasting companies may produce and transmit audio, audiovisual and text services other than on-demand audiovisual media services, via telecommunications networks, including in information and communication technology systems, for viewers and/or listeners abroad in the Polish language and other languages.

1b. The tasks of the public radio and television broadcasting companies referred to in paragraph 1 subparagraph 1 and paragraph 1a with regard to the production of services in languages other than the Polish language may be implemented by third parties for the benefit of the companies referred to in Article 26 paragraphs 2 and 3.

2. Public radio and television broadcasting companies shall produce and transmit educational programmes for schools and other educational institutions.

3. Educational programmes shall comply with the requirements of school educational curricula.

4. The costs of producing programme services and programmes referred to in paragraphs 1 and 2 shall be paid from the state budget.

5. The scope and mode of conducting the operations referred to in paragraphs 1 and 2 as well as the principles of covering the costs thereof shall be defined in agreements executed by ministers in charge, respectively, of foreign affairs and of national education with public radio and television broadcasting companies.

**Article 26.1.** Public radio and television broadcasting companies shall operate exclusively in the form of a sole-proprietor joint stock company of the State Treasury, hereinafter referred to as “the company”.

2. Public television shall be provided by the company “Telewizja Polska - Spółka Akcyjna” established for the purpose of producing and transmission of:

- 1) national programme services I and II, a thematic news and current affairs programme service and a cultural and arts programme service;
- 2) programme services addressed to audiences abroad;
- 3) regional television programme services;

4) other programme services and services fulfilling the public service remit, referred to in Article 21 paragraph 1, specified in the charter of responsibility, including thematic programme services other than specified in subparagraph 1.

2a. Regional branches of the company “Telewizja Polska - Spółka Akcyjna” shall have their head offices in: Białystok, Bydgoszcz, Gorzów Wielkopolski, Gdańsk, Katowice, Kielce, Kraków, Lublin, Łódź, Opole, Olsztyn, Poznań, Rzeszów, Szczecin, Warszawa, Wrocław.

3. Public radio shall be provided by:

- 1) the company “Polskie Radio - Spółka Akcyjna” established in order to produce and transmit national radio programme services and programme services for listeners abroad,
- 2) companies founded to produce and transmit regional radio programme services, hereinafter referred to as “regional radio companies”.

4. The provisions of the Code of Commercial Companies and Partnerships, except for Articles 312 and 402, shall apply to companies referred to in paragraphs 2 and 3, subject to Articles 27 to 30 of the Act.

5. Acting in agreement with the Chairman of the National Council, the President of the Office of Electronic Communications shall reserve, by a decision, the frequencies required for the companies to perform their statutory tasks and shall lay down the conditions of use of these frequencies. Any frequency reservations, modifications or withdrawals thereof shall be governed by the Act of 16 July 2004 - the Telecommunications Law, except Article 116 thereof.

6. Acting in agreement with the Chairman of the National Council, the President of the Office of Electronic Communications shall allocate to companies producing and transmitting:

- 1) national television programme services - the frequencies required for national coverage of the programme services referred to in Article 26 paragraph 1a subparagraphs 1 and 4;
- 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, as well as frequencies required to transmit programme services specified in the charter of responsibility;
- 3) regional television programme services - the frequencies required to transmit regional television programme services, including programme services specified in the charter of responsibility;
- 4) regional radio programme services - the frequencies required to transmit regional radio programme services, including programme services specified in the charter of responsibility.

7. The programme service on the TV Polonia channel shall be transmitted by satellite.

8. The provisions of Article 115 paragraph 3 of the Act of 16 July 2004 - the 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. (repealed)**

2. (repealed)

3. The National Media Council shall appoint and recall members of the Management Board, including the President of the Management Board.

4. Members of the Management Board shall be appointed from amongst persons competent in the field of radio and television broadcasting and not convicted by a final and binding judgement of a deliberate criminal offence subject to public prosecution or of a fiscal offence.

5. (repealed)

6. (repealed)

7. Members of Management Board and persons holding executive positions in public radio and television companies shall be guided, in their work and in their assessment of journalists and other creators

subordinate to them, by the principles of professionalism, integrity and reliability as well as the guidelines set forth in Article 21 paragraphs 1a and 2 of the Act.

**Article 28.1.** The Supervisory Board of the company shall consist of three members.

1a. *(repealed)*.

1b. *(repealed)*.

1c. *(repealed)*.

1d. *(repealed)*.

1e. Members of the Supervisory Boards shall be appointed and recalled by the National Media Council.

1f. Members of Supervisory Boards shall be appointed from amongst persons who meet the conditions laid down in regulations on privatisation and commercialisation for candidates for members of Supervisory Boards in companies, where the State Treasury is the sole shareholder.

2. The Supervisory Board shall adopt resolutions by an absolute majority of votes cast in the presence of at least a half of the Board members.

3. The Supervisory Board shall elect the Chairman from amongst its members.

4. The Supervisory Board shall adopt the internal rules of procedure regulating the functioning of the Board.

5. *(repealed)*

6. The Supervisory Board's approval shall be required in order to:

- 1) employ or terminate the employment of persons holding executive positions specified in the company's statutes,
- 2) execute 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 acquire 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 Media 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 an allowance paid out by the company in an amount determined by the National Media Council.

5. The Management Board shall provide to 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.** *(repealed)*

1a. Members of the National Media Council shall also have the right to participate in the general meeting of shareholders.

1b. Amendment of the company's statutes shall be effected upon request or upon a prior consent of the National Media Council.

2. The management board shall not be bound by any directions or prohibitions imposed by the general meeting of shareholders in respect of the contents of a programme service.

3. *(repealed)*

**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 management board of the company upon consent of the National Media Council.

4. The programme council of the branch shall serve as an advisory and consultative body of the director of the company's regional branch.

4a. When appointing programme councils of branches broadcasting programme services in the languages of national and ethnic minorities and in regional languages, branch directors shall take into account candidates put forward by social organizations of national and ethnic minorities and communities speaking regional languages.

5. Upon a motion of the Board of Management of the company and after having consulted the directors of the regional branches, the National Media Council shall determine the minimum share of programmes produced by the company's regional branches in the transmission time of particular national programme services.

6. *(repealed)*

**Article 30a.1.** The provisions concerning programme services for viewers abroad shall apply accordingly to the programme service transmitted by the "TV Polonia" channel.

2. The programme council of TV Polonia shall serve as an advisory and consultative body in respect of the production and transmission of the programme service of the "TV Polonia" channel.

**Article 31.1.** The revenues of the companies referred to in Article 26 paragraphs 2 and 3 shall be derived from:

- 1) licence fees, default interest for delay in the payment of licence fees and fines for the use of unregistered radio and television sets, as defined in the provisions of the Licence Fees Act of 21 April 2005, subject to the reservation of Article 8 paragraph 1 thereof,
- 2) trade in programme rights,
- 3) commercial communications,
- 4) other sources.

2. The revenues of these companies may also include grants from the State budget.

3. Shareholders of the companies referred to in Article 26 paragraphs 2 and 3 shall not be entitled to a share in the companies' profits.

4. The revenues derived from sources set out in paragraph 1 subparagraph 1 and paragraph 2 shall be allocated only for the fulfilment of the public service remit, referred to in Article 21 paragraph 1.

5. The annual revenues of a public radio and television broadcasting company from the sources referred to in paragraph 1 subparagraph 1 and paragraph 2 shall not exceed the net cost of fulfilment of the

public service remit, referred to in Article 21 paragraph 1, by the given public radio and television broadcasting company.

6. The net cost of fulfilment of the public service remit referred to in Article 21 paragraph 1 shall be the difference between the total cost of the public service remit incurred by the public radio and television broadcasting company concerned in the calendar year in question and the net revenue received by it from other operations during that period.

7. If, in a given calendar year, a public radio and television broadcasting company achieves revenues from the sources referred to in paragraph 1 subparagraph 1 and paragraph 2 in excess of the net cost of fulfilment of the public service remit referred to in Article 21 paragraph 1 and the amount of the surplus does not exceed 10% of the total cost of fulfilment of the public service remit provided for in the approved plan, referred to in Article 21c paragraph 1, for that year, the company need not reimburse that surplus, provided that it is allocated for the fulfilment of the public service remit in subsequent periods, on terms specified in the charter of responsibility.

8. Any surplus in excess of the limit set out in paragraph 7, as well as any surplus within that limit, but unallocated in accordance with paragraph 7, shall be repaid to the National Council if it is derived from the sources referred to in paragraph 1 subparagraph 1, or to the relevant unit of the public finance sector, if it is derived from the sources referred to in paragraph 2. The repayment of the surplus from the sources referred to in paragraph 1 subparagraph 1 shall be made by reducing the revenue due from those sources, in the calendar year during which the surplus is to be repaid.

9. The decision on the repayment of the surplus referred to in paragraph 8 shall be made by the Chairman of the National Council on the basis of a resolution of the National Council, with due regard for the assessment of the report referred to in Article 31b paragraph 1, within 14 days of the adoption of the resolution.

10. At the request of a public radio and television broadcasting company, the Chairman of the National Council may authorise, in a decision issued on the basis of a resolution of the National Council, the company concerned to retain the surplus in excess of the limit specified in paragraph 7, on the condition that the surplus is allocated, during the period specified in the decision, for specific costs necessary for the fulfilment of the public service remit referred to in Article 21 paragraph 1.

11. When exercising its powers laid down in Article 3 paragraphs 5 and 6 and Article 8 paragraph 2 of the Licence Fees Act of 21 April 2005 and executing the agreement, referred to in Article 21a paragraph 5, and approving the plan referred to in Article 21c paragraph 1, the National Council takes into account the surpluses generated by public radio and television broadcasting companies, referred to in paragraphs 7, 8 and 10.

**Article 31a.1.** The companies referred to in Article 26 paragraphs 2 and 3 shall be obligated to specify the accounting principles, including a company chart of accounts, in the documents referred to in Article 10 of the Accounting Act of 29 September 1994, to ensure that the revenues and related costs are disclosed in the books of accounts separately for the operations, referred to in Article 21 paragraph 1, and other operations, as well as specify the methods of allocation of revenues and costs to particular types of operations pursued.

2. The obligation, 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 determine, by a regulation, the manner of keeping the documents, referred to in paragraph 10 of the Accounting Act of 29 September 1994, and the manner of preparing the report, referred to in Article 31b subparagraph 1, with due regard for the need to observe the principles of openness and transparency in the use of funds allocated for the fulfilment of the public service remit referred to in Article 21 paragraph 1.

**Article 31b.1.** By 30 April of a given calendar year, public radio and television broadcasting companies shall prepare and submit to the National Council and publish on their websites a report for the previous calendar year on the fulfilment of the public service remit referred to in Article 21 paragraph 1, containing:

- 1) information on the fulfilment of tasks specified in legal provisions and in the charter of responsibility, resulting from the public service remit referred to in Article 21 paragraph 1;
- 2) information on the amount and use of funding derived from the different sources referred to in Article 31 paragraphs 1 and 2;
- 3) information on the manner of implementing the principles referred to in Article 31a paragraph 1;
- 4) information on the total cost of fulfilling the public service remit referred to in Article 21 paragraph 1, with an indication of the costs of each of the tasks and information on income from other operations;
- 5) calculation of the net cost of fulfilment of the public service remit in accordance with Article 31 paragraph 6 and the surpluses referred to in Article 31 paragraphs 7 or 8, if any;
- 6) proposal on how to allocate the surplus referred to in Article 31 paragraph 7, if any.

2. On the basis of its assessment of the report referred to in paragraph 1, the National Council shall adopt, by 30 June of each calendar year, a resolution on either acceptance or rejection thereof. The resolutions are published on the website of the National Council.

3. Adopting the resolution referred to in paragraph 2, the National Council may specify recommendations concerning the manner of implementation of the undertakings set out in the charter of responsibility and the plan referred to in Article 21c paragraph 1 in the following calendar year and may order that certain corrective measures be taken, specifying the deadline for the implementation of the recommendations or corrective measures.

4. The public radio and television broadcasting company for which these recommendations or corrective measures referred to in paragraph 3 have been specified shall be required to include the information on how they have been implemented in the report, referred to in paragraph 1, for the following calendar year.

**Article 31c.** Public radio and television broadcasting companies shall prepare and publish on their websites, by 30 March of the given year, reports for the preceding calendar year on the use of proceeds from licence fees as defined in the Licence Fees Act of 21 April 2005, default interest for delay in their payment and fines for the use of unregistered sets, for carrying out the public service remit referred to in Article 21 paragraph 1, with an indication of funds allocated for implementation of individual tasks set forth in Article 21 paragraph 1a.

**Article 32.** In order to implement the tasks of public radio and television broadcasting, the companies may, upon consent of the National Media Council, found new business operators as envisaged by the law.

## Chapter 5

### Broadcasting Licences

**Article 33.1.** Transmission of radio and television programme services other than those of public radio and television broadcasters shall require a licence.

1a. Transmission of television programme services exclusively in information and communication technology systems shall not require a licence, unless the programme service is to be retransmitted by terrestrial diffusion, by satellite or in cable networks.

2. Broadcasting licences shall be awarded by the Chairman of the National Council.

3. The Chairman of the National Council shall take decisions as regards broadcasting licences on the basis of a resolution of the National Council. The decision on this matter is final and binding.

**Article 34.1.** Having sought the opinion of the President of the Office of Electronic Communications to the extent defined in paragraph 1a subparagraph 3, the Chairman of the National Council shall publish in the official journal of the Republic of Poland "Monitor Polski" an announcement concerning availability of broadcasting licences to transmit radio and television programme services by terrestrial diffusion, and



determine the time limit, which shall not be less than 45 days from the date of the announcement, for filing licence applications.

1a. The announcement referred to in paragraph 1 shall specify:

- 1) the subject of the procedure,
- 2) programming conditions of transmission of the programme service, including in particular the type and nature of the programme service,
- 3) frequencies or channels as well as the maximum radiated power and location of transmitters intended for transmission of the programme service or the area over which the frequencies may be used, unless the transmission of the programme service does not require reservation of frequency;
- 4) number of broadcasting licences,
- 5) duration for which the broadcasting licence may be awarded,
- 6) time limit and location for filing applications.

1b. The Chairman of the National Council shall, not later than 14 days from the date of the announcement referred to in paragraph 1, publish information on the announcement in at least two printed national dailies.

1c. Exclusively those licence applications that have been filed in connection with the announcement referred to in paragraph 1 shall be examined.

2. The Chairman of the National Council shall publish a list of applicants participating in the licensing procedure. In the 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.** A broadcasting licence may be awarded to a natural person of Polish nationality who permanently resides in the territory of the Republic of Poland, legal person or partnership with a head office in the territory of the Republic of Poland.

2. Companies having foreign shareholders may be awarded a broadcasting licence if:

- 1) the equity stake held by foreign persons in the company or the stake held by foreign persons in the founding capital of a limited liability company or share capital of a joint-stock company or, in the case of a simple joint-stock company, in the total number of shares in that company, shall not exceed 49%;
- 2) the company's articles of association or statutes contain a clause which provides that:
  - a) persons of Polish nationality who permanently reside in Poland constitute a majority of persons authorised to represent the company or manage its affairs, or of members of the Board of Management of the said company,
  - b) the share of votes exercised by foreign persons and subsidiaries, as defined by the Code of Commercial Companies and Partnerships, in a meeting of a limited company's members or the general meeting of shareholders may not exceed 49%,
  - c) foreign persons may not hold, directly or indirectly, a majority in excess of 49% of votes in a partnership,
  - d) persons of Polish nationality who permanently reside in Poland constitute a majority of members of the Supervisory Board of the said company.

3. The licence may also be awarded to:

- 1) a foreign person, or
- 2) a subsidiary, as defined by the Code of Commercial Companies and Partnerships, of a foreign person, - having a head office or permanent residence in a Member State of the European Economic Area, with exclusion of the restrictions imposed in paragraph 2.

**Article 35a.1.** A broadcaster may file an application for a broadcasting licence for a successive term not later than 12 months before the expiry of the licence held.

2. If a broadcaster files the application referred to in paragraph 1, the broadcasting licence for a successive period may be refused exclusively if any of the circumstances enumerated in Article 38 paragraphs 1 or 2 occurs with respect to the broadcaster.

3. If a broadcaster files the application referred to in paragraph 1, Article 34 and Article 36 paragraphs 1 and 2 shall not apply to the licensing procedure.

**Article 36.1.** In the licensing procedure, 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, with due regard for the degree of their implementation by other broadcasters in the area covered by the broadcasting licence,
- 2) the applicant's ability to make the necessary investments and ensure financing of the programme service,
- 3) the planned share of programmes produced or commissioned by the broadcaster or co-produced by the broadcaster jointly with other broadcasters, in the programme service,
- 4) the planned share of the programmes referred to in Article 15 paragraphs 1 and 3, in a television programme service, or of works referred to in Article 15 paragraph 2, in a radio or television programme service,
- 5) past compliance with regulations governing radio communications and the mass media.

2. The broadcasting licence shall not be awarded if transmission of a programme service by the applicant could result in:

- 1) threat to the interests of the national culture, transgression of the standards of public decency and proper conduct, danger to national security and defence or threat to security of classified information,
- 2) achievement, by the applicant, of a dominant position in mass media in the given area.

3. The broadcasting licence shall be awarded for 10 years.

**Article 36a.** If, following the assessment of applications in accordance with Article 36, the number of applicants remains greater than the number of licences to be awarded, a tender for the award of the licence shall be organised.

**Article 36b.1.** The Chairman of the National Council shall announce in the official journal of the Republic of Poland "Monitor Polski" the need to hold a tender for the applicants referred to in Article 36a.

2. The notice also specifies the following:

- 1) minimum fee for the award of the licence - not less than the fee prescribed by law for award of a licence,
- 2) place and date for submission of offers,
- 3) amount, form and date of the tender deposit,
- 4) deadline for awarding the tender.

3. The tender shall be conducted by the Chairman of the National Council.

4. The offer written in the Polish language shall be submitted in sealed envelopes at the time and place and in the form specified in accordance with paragraphs 1 and 2.

5. The offer shall include:

- 1) identification of the applicant, the applicant's registered office and address or the applicant's place of residence and address and the principal place of business,
- 2) the declared fee for awarding a licence.

6. Tenders shall not be withdrawn after their submission.

**Article 36c.1.** The Chairman of the National Council shall select the offers in a number corresponding to the number of the licences referred to in Article 34 pa 1a subparagraph 4, guided by the value of the declared licence fees.

2. Where a number of applicants have declared the same value of the fee, those applicants shall be requested to re-declare the value of the fee and the offer of the bidder who declared a higher fee shall be selected.

3. After the award of the tender, the Chairman of the National Council shall without delay communicate the outcome of the tender in writing to those applicants who submitted offers, and:

- 1) return the tender deposit to unsuccessful bidders,
- 2) shall credit the tender deposit against the fee to the successful bidders.

4. The licences shall be awarded to those bidders whose offers have been selected.

**Article 36d.1.** An applicant who the course of the licence award procedure provides information which is a business secret within the meaning of the provisions on combating unfair competition may request that such information be protected under a confidentiality clause.

2. Information shall be classified as confidential, provided that the applicant:

- 1) fully substantiates the request when providing the information;
- 2) compile a summary of the information provided, which may be made available to other participants of the tender procedure.

3. Information that has been classified as confidential may not be disclosed to other participants of the proceedings without the consent of the applicant who provided the information.

**Article 37.1.** The broadcasting licence shall specify in particular:

- 1) the broadcaster, its head office or place of residence,
- 2) the operations covered by the broadcasting licence,
- 3) the method of transmitting the programme service (by analogue terrestrial diffusion, digital terrestrial diffusion in multiplex, satellite, in telecommunications networks other than the networks used for transmission by terrestrial diffusion or by satellite) and:

- for analogue terrestrial diffusion:

- a) location of the station,
- b) height on which the antenna is located,
- c) maximum radiated power,
- d) antenna radiation pattern,
- e) frequency,
- f) polarisation,

- for transmission by digital terrestrial diffusion in multiplex:

- g) multiplex,
- h) area of transmission,
- i) signal parameters – IDs,

- for transmission by satellite:

- j) name of the satellite used,
- k) position of the satellite on the orbit,
- l) frequency,
- m) location of uplink station,

- for transmission in telecommunications networks other than the networks used for transmission by terrestrial diffusion or by satellite:
  - n) location of the system head station,
  - o) area covered by the telecommunications network,
- 4) the type of programme service to be transmitted and the time of its transmission,
- 5) the date of the initial transmission of the programme service,
- 6) the date of expiry of the licence.

2. The licence may specify other aspects of the broadcaster's operations, if so required to implement the provisions of the Act.

3. Within the scope stipulated in paragraph 1 subparagraph 3, first and second bullet point, the broadcasting licence shall be awarded in agreement with the President of the Office of Electronic Communications who takes the position with due regard for the fulfilment of conditions laid down in Article 114 paragraph 3 of the Act of 16 July 2004 – the Telecommunications Law.

3a. The President of the Office of Electronic Communications shall forthwith reserve a frequency for a broadcaster who has been awarded a licence to transmit a radio programme service by analogue terrestrial diffusion. Any reservations or modifications of the frequency referred to in the first sentence shall be governed by the Act of 16 July 2004 - the Telecommunications Law, except Article 116 thereof.

4. Following consultation with the President of the Office of Electronic Communications, the National Council shall determine, by a regulation, the essential information to be provided in the application form as well as the detailed procedure for awarding or revoking broadcasting licences.

**Article 37a.1.** A media service provider who compiles financial statements in accordance with Article 45 paragraph 1 of the Accounting Act of 29 September 1994 shall submit the statements to the National Council within 15 days from the date of its approval or compiling, if the applicable regulations governing the operations of the provider do not require approval of the statements.

2. A media service provider who is not required to compile the financial statements referred to in paragraph 1 shall submit to the National Council a copy of the tax return referred to in Article 45 paragraph 1 or paragraph 1a subparagraph 2 of the Personal Income Tax Act of 26 July 1991 (official journal “Dz.U.” of 2021, item 1128, as amended), within 15 days of its submission to the tax office.

3. Together with the statements referred to in paragraph 1 or a copy of the tax return referred to in paragraph 2, the media service provider shall submit the information on the annual revenues and costs of the respective media services provided.

4. The information referred to in paragraph 3 shall include, in particular, the information on revenue derived from broadcasting of commercial communications and fees from recipients of individual media services.

5. The Chairman of the National Council may request the regulatory authority of a Member State of the European Union to provide information contained in the documents referred to in paragraphs 1 and 2, as well as information referred to in paragraphs 3 and 4, concerning a media service provider under the jurisdiction of that Member State of the European Union with regard to the revenues and costs of that provider obtained and incurred on the territory of the Republic of Poland.

**Article 37b.** The broadcaster shall notify the Chairman of the National Council of any changes to the data contained in the licence application within 14 days of their occurrence.

**Article 37c.1.** If a television programme service is to be transmitted or retransmitted beyond the territory of the Republic of Poland, then together with the licence application, the broadcaster shall provide the National Council with information on the countries in which the programme service can be received.

2. If a broadcaster has obtained a licence for the programme service referred to in paragraph 1, the said broadcaster shall provide the National Council with information on the countries in which the programme service can be received within 14 days from the date of commencement of transmission or retransmission of the programme service in those countries.

3. The National Council may determine, by a regulation, the mode and form in which the information referred to in paragraphs 1 and 2 is to be provided, having regard for the need to obtain full information and not to impose undue hardship and costs on broadcasters in connection with the provision thereof.

**Article 38.1.** The broadcasting licence shall be revoked if:

- 1) a final and binding ruling has been issued prohibiting the broadcaster to run business operations covered by the broadcasting licence,
- 2) the broadcaster blatantly violates the conditions set forth in the Act or the broadcasting licence,
- 3) the operations covered by the broadcasting licence are run in breach of the Act or the terms of the broadcasting licence, and the broadcaster, despite having been requested by the Chairman of the National Council, has not eliminated the factual or legal circumstances non-compliant with the conditions set forth in the broadcasting licence or the Act within a prescribed time limit,
- 4) despite having been requested by the Chairman of the National Council, the broadcaster has not commenced to transmit the programme service within the time limit set in the broadcasting licence, or has permanently ceased to transmit it via all or some transmitters, unless the broadcaster proves that the delay in commencing transmission of the programme service or cessation of programme service transmission resulted from circumstances beyond its control. Permanent cessation of programme service transmission shall be deemed to mean non-transmission of the programme service for the period of three consecutive months.

2. The broadcasting licence may be revoked if:

- 1) the transmission of the programme service poses a hazard to the interests of the national culture, state security and defence or if it transgresses the standards of public decency,
- 2) *(repealed)*
- 3) by transmitting the programme service the broadcaster gains a dominant position in mass media on the given relevant market as defined in regulations on protection of competition and consumers,
- 4) another person takes over direct or indirect control over the operations of the broadcaster.

3. The Chairman of the National Council shall make public information on opening of the procedure for revoking the broadcasting licence.

4. If the decision revoking the broadcasting licence becomes final and binding, the Chairman of the National Council shall forthwith announce the availability of a licence within the scope covered by the revoked licence.

**Article 38a.1.** The rights under the broadcasting licence shall be inalienable, subject to provisions of paragraphs 3 to 5.

2. The rights referred to in paragraph 1 shall not be transferred onto the purchaser of a bankrupt enterprise.

3. In the case of a merger, division or other transformations of commercial companies, the rights referred to in paragraph 1 may transfer onto another entity upon consent of the National Council given in the form of a resolution. The consent shall be refused if:

- 1) the broadcaster gains a dominant position in mass media on the given relevant market as defined in regulations on protection of competition and consumers,
- 2) another person takes over direct or indirect control over the operations of the broadcaster.

3a. A natural person may transfer the rights under the licence, subject to the consent of the National Council expressed in a resolution, onto a company of which the person is a shareholder and which meets the conditions referred to in Article 35. Consent may be refused for reasons referred to in Article 36 paragraph 2.

4. Based on a resolution of the National Council, the Chairman of the National Council shall issue a decision granting or refusing to grant the consent referred to in paragraphs 3 and 3a.

5. The Act of 16 July 2004 - the Telecommunications Law shall apply to the rights arising from frequency reservation.

**Article 38b.1.** After the delivery of the decision, referred to in Article 123 paragraph 13 of the Act of 16 July 2004 - the Telecommunications Law, the Chairman of the National Council shall without delay, initiate *ex officio* proceedings to amend the licence to the extent specified in that decision.

2. The amendment of the licence referred to in paragraph 1 shall not require the consent of the party.

3. Articles 34 and 40 shall not apply to the licence amendment procedure referred to in paragraph 1.

**Article 39.** The broadcasting licence to transmit a television programme service shall also cover the use of the television signal to transmit teletext services.

**Article 39a.1.** A broadcasting licence may be awarded for the transmission, via cable networks or via satellite, of a programme service devoted exclusively to:

- 1) teleshopping,
- 2) self-promotion.

2. The provisions of the Act, with the exception of Articles 15 to 15b, shall apply as appropriate to the programme services referred to in paragraph 1.

3. The following shall not apply to the programme services referred to in paragraph 1 subparagraph 1:

- 1) limitation of the admissible duration of advertising and teleshopping spots per clock hour as laid down in Article 16 paragraph 3,
- 2) the provisions of Article 16 paragraph 6 and Article 16a.

**Article 39b.1.** The following entities may apply to the National Council to be granted the status of a social broadcaster:

- 1) an association, within the framework of implementing its statutory objectives,
- 2) a foundation, within the framework of implementing its statutory objectives,
- 3) a church or a religious legal person of a given church, or a religious organisation whose status is regulated by an Act of Parliament.

2. Social broadcasters shall be exempt from fees payable for awarding or amending the licence.

3. In case of breach, by a social broadcaster, of requirements specified in Article 4 paragraph 10, the licensing authority shall issue a decision revoking its status as a social broadcaster and shall, in the said decision, impose the obligation to pay the fees referred to in paragraph 2, along with legal interest for the delay charged as from the date of awarding or amending the broadcasting licence.

**Article 40.1.** A fee shall be charged for awarding a broadcasting licence for the transmission of a radio or television programme service, irrespective of the annual fees for the use of a frequency, provided for in the Act of 16 July 2004 – the Telecommunications Law. Awarding of a broadcasting licence shall also be understood to mean an amendment thereof.

2. The fee for awarding a licence shall not be higher than:

- 1) in the case of transmitting a radio programme service by means of analogue terrestrial diffusion – PLN 12 317 570;
- 2) in the case of transmitting a television programme service by means of analogue terrestrial diffusion – PLN 25 890 000;
- 3) in the case of transmitting a radio programme service by means of digital terrestrial diffusion in multiplex – PLN 6 158 785;
- 4) in the case of transmitting a television programme service by means of digital terrestrial diffusion in multiplex – PLN 25 890 000.

3. The fee for awarding a licence shall be equal to:

- 1) in the case of transmitting a radio programme service by means of satellite broadcast – PLN 500;
- 2) in the case of transmitting a television programme service by means of satellite – PLN 10 000;
- 3) in the case of transmitting a radio programme service in telecommunications networks other than those used for terrestrial diffusion broadcasting or satellite broadcasts – PLN 500;
- 4) in the case of transmitting a television programme service in telecommunications networks other than those used for terrestrial diffusion broadcasting or satellite broadcasts – PLN 2 000.

4. If the radio or television programme service is transmitted by different modes, the licence fee shall be fixed as the sum total of the amounts due for the respective modes of transmission

5. In the case of a licence fee for a simultaneous transmission of a radio programme service by analogue terrestrial diffusion and digital terrestrial diffusion in multiplex, the fee is equal to a fee for awarding a licence to transmit a radio programme service by digital terrestrial diffusion in multiplex.

6. Acting in agreement with the minister in charge of public finance sector, the National Council shall determine, by a regulation, the amount of the fee for awarding the licence, not higher than the fee referred to in paragraph 2, and the method of calculating the said fee taking into account the following factors:

- 1) time of advertisements broadcasts;
- 2) for programme services referred to in paragraph 2 subparagraph 1:
  - a) number of inhabitants covered by the programme service,
  - b) radio wave reach,
  - c) number of inhabitants in cities covered by the programme service;
- 3) for the programme services referred to in paragraph 2 subparagraph 2, the number of inhabitants in the programme service's coverage area;
- 4) for programme services referred to in paragraph 2 subparagraph 3:
  - a) in the case of awarding a licence for coverage less than the range of the Polish national multiplex signal, which is deemed to cover the territory of the whole country - the number of inhabitants covered by the programme service,
  - b) digital audio broadcasting standard,
  - c) in the case of amendment of the licence for transmission of the programme service by terrestrial diffusion consisting in granting the right to transmit a digital programme service - the number of inhabitants covered by the analogue programme service;
- 5) for programme services referred to in paragraph 2 subparagraph 4:
  - a) in the case of awarding a licence for coverage less than the range of the Polish national multiplex signal, which is deemed to cover the territory of the whole country - the number of inhabitants covered by the programme service,
  - b) digital video broadcasting standard,
  - c) in the case of amendment of the licence for transmission of the programme service by terrestrial diffusion consisting in granting the right to transmit a digital programme service - the number of inhabitants covered by the analogue programme service;
- 6) proportionally until the expiry of the licence in the case of amendment of the licence, which affects the value of the broadcasting fee.

7. The National Broadcasting Council shall determine, by a regulation, the technical methods of determining the coverage of the programme service on the territory where the programme service is transmitted by terrestrial diffusion, taking into account the advancement of science and technology in this field.

8. The value of the fees referred to in paragraphs 2 and 3 and the fees referred to in regulations issued on the basis of paragraph 6 shall be indexed every year in line with the average annual value of the consumer goods and services price index for the past calendar year, announced by the President of the Central Statistical Office. If the said index is negative, the value of the broadcasting fees shall not be changed.

9. By October 31 of each year at the latest, the Chairman of the National Broadcasting Council shall announce in the Official Journal "Monitor Polski" of the Republic of Poland the value of fees for the next year, referred to in paragraphs 2 and 3, and in regulations issued on the basis of paragraph 6, with due regard for paragraph 8 thereof, rounding them up to the next full Polish Zloty amount.

10. The broadcasting fee shall be paid as a single payment or in equal annual instalments payable during successive years during the term of the licence. The manner of payment of the licence shall be stated, based on the application, in the decision on granting the licence.

11. The first fee or the first instalment of the fee referred to in paragraph 10 shall be paid within a time limit of 60 days from the date of receipt of the licence awarding decision. In the case of splitting the payment into instalments, the decision on awarding the licence shall determine the payment extension fee based on the Act of 29 August 1997 – the Tax Ordinance (official journal "Dz.U." of 2021, item 1540, as further amended).

12. In the case of annulment or revoking of the licence, the entire fee referred to in paragraph 1, shall become due and payable to the extent it has not been paid and shall be paid within 60 days from the date of receipt of the decision on annulment or revoking of the licence.

13. The licence fees shall constitute the income of the State budget.

**Article 40a.1.** Purchase or acquisition by a foreign person of shares or interest, or acquisition of rights in shares or interest in a company holding a broadcasting licence to transmit a programme service 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 grant and withdraw the consent referred to in paragraph 1 on the basis of a resolution of the National Council.

4. The actions, referred to in paragraph 1, performed without the consent shall be null and void.

5. The provisions of paragraphs 1 to 3 shall not apply to foreign persons or subsidiaries, as defined by the Code of Commercial Companies and Partnerships, of foreign persons having a head office or permanent residence in a Member State of the European Economic Area.

**Article 40b.** Chapter 5 of the Act of 6 March 2018 - the Entrepreneurs Law shall apply to the control of business operations of the entrepreneur referred to in Article 33.

## Chapter 6

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

**Article 41.1.** The following programme services shall be subject to registration:

- 1) retransmitted programme services,
- 2) television programme services transmitted exclusively in an information and communication technology system.

2. The obligation set out in paragraph 1 subparagraph 1 shall not apply to the programme services referred to in Article 43 paragraph 1.



3. The register shall be kept by the Chairman of the National Council.

4. The Code of Administrative Procedure shall apply to the registration procedure, unless otherwise provided for in the Act.

5. The register shall be open to the public.

**Article 42.1.** An entity applying for registration of a programme service in the register of television programme services transmitted exclusively in the information and communication technology systems and retransmitted programme services shall pay a fee of PLN 100 per each programme service.

2. The fee referred to in paragraph 1 shall constitute the income of the State budget.

3. Article 40 subparagraphs 8 and 9 shall apply to indexation and announcement of the value of the fee.

**Article 43.1.** An operator that retransmits a programme service, with the exception of an entity that retransmits a programme service by digital terrestrial diffusion in multiplex, shall retransmit the programme services “Telewizja Polska I”, “Telewizja Polska II” and one regional television programme service transmitted by Telewizja Polska S.A. as well as the programme services transmitted on the date of entry into force of the Act of 30 June 2011 on the Launch of Digital Terrestrial Television (official journal “Dz.U.” of 2016, item 649) on the basis of the licence to transmit these programme services by analogue terrestrial diffusion by Telewizja Polsat S.A., TVN S.A., Polskie Media S.A., Telewizja Puls Sp. z o.o. In the case of an operator that retransmits programme services in telecommunications networks other than the networks used for transmission by terrestrial diffusion or by satellite, the obligation to retransmit a regional television programme service shall apply to a regional television programme service relevant for a given area.

2. A broadcaster that transmits the programme service referred to in paragraph 1 may not refuse an operator that retransmits the programme service in the telecommunications network referred to in paragraph 1 the consent for the retransmission of this programme service, and may not make such consent conditional upon payment of any consideration, including in particular any fee for the award of a licence for the use of the broadcast.

3. The Chairman of the National Council shall assess the fulfilment of the obligation referred to in paragraph 1 not less frequently than once every two years, being guided by social interest with regard to provision of information, ensuring access to culture and art, facilitating access to learning, sport and scientific achievements as well as dissemination of civic education.

4. The Chairman of the National Council shall submit the results of the assessment to the minister in charge of culture and national heritage who shall take actions necessary to ensure that the obligations referred to in paragraph 1 are proportionate and transparent as well as imposed solely when required for purposes of attainment of the objectives set out in paragraph 3.

**Article 43a.1.** A broadcaster that transmits the programme service referred to in Article 43 paragraph 1 shall make this programme accessible free of charge on an application of the operator retransmitting the programme service, within 14 days from submission of the application.

2. If the broadcaster fails to fulfil the obligation to make the programme service accessible free of charge, the Chairman of the National Council, acting on an application of the operator retransmitting the programme service, shall request the broadcaster to make the programme service accessible to this operator, within 14 days from service of the request.

3. The operator retransmitting the programme service shall:

- 1) retransmit and offer the programme service made accessible to it free of charge,
- 2) inform in its offering that the programme service is intended for general and free of charge reception, also by digital terrestrial diffusion.

**Article 44.1.** The registering authority shall register a programme service referred to in Article 41 paragraph 1 subparagraph 1 on the basis of a notification.

2. An operator retransmitting a programme service shall notify a programme service for registration not later than one month prior to the commencement of its retransmission.

3. The application referred to in paragraph 1 shall:

- 1) specify the applicant, its head office or place of residence, mailing address, including electronic mail address, that ensures effective and prompt contact,
- 2) specify the programme service intended for retransmission and its broadcaster,
- 3) define the area over which the programme service is to be retransmitted.

4. A cable network operator shall enclose with the notification:

- 1) documents stating that the retransmission of the programme service will not infringe upon the rights of the programme service broadcaster,
- 2) documents stating that the programme service is transmitted, and in the case of a programme service provided to the operator by the broadcaster – a contract with the programme service broadcaster.

5. (*repealed*)

6. The entry in the register shall in particular contain the particulars referred to in paragraph 3, with the exception of address of residence, if different from the address of the head office.

7. The retransmission of the programme service may commence if the registering authority has not refused the registration within one month from the date of notification, on condition of payment of the fee referred to in Article 42 paragraph 1 by the operator.

8. The registering authority may request the operator retransmitting the programme service to complete the notification within 14 days from receipt of the request. If the registering authority has requested the operator to complete the notification, the time limit referred to in paragraph 7 shall run from the day of receipt of a completed notification.

9. The operator retransmitting a programme service shall notify the registering authority, within 14 days, of any changes in the state of facts or the legal status subject to registration, that arose after the act of registration. The provisions governing the registration shall apply accordingly to notification of changes.

**Article 44a.1.** The registering authority shall register a programme service referred to in Article 41 paragraph 1 subparagraph 2 on the basis of a notification.

2. A broadcaster of a television programme service transmitted exclusively in an information and communication technology system shall notify a programme service for the purpose of its registration not later than one month prior to the commencement of its transmission.

3. The application referred to in paragraph 1 shall:

- 1) specify the broadcaster, its head office or place of residence, mailing address, including electronic mail address, that ensures effective and prompt contact,
- 2) contain basic information on the programme service intended for transmission,
- 3) specify the manner of transmission of the programme service,
- 4) specify the countries in which the programme service can be received.

4. The entry in the register shall in particular contain the particulars referred to in paragraph 3, with the exception of address of residence, if different from the address of the head office.

5. The transmission of the programme service may commence if the registering authority has not refused the registration within one month from the date of notification.

6. The registering authority may request the broadcaster to complete the notification within 14 days from receipt of the request. If the registering authority has requested the broadcaster to complete the notification, the time limit referred to in paragraph 5 shall run from the day of receipt of a completed notification.

7. The broadcaster shall notify the registering authority, within 14 days, of any changes in the state of facts or the legal status subject to registration, that arose after the act of registration. The provisions governing the registration shall apply accordingly to notification of changes.

**Article 44b.1.** It shall be prohibited to impair the integrity of a media service without the consent of its provider, in particular by:

- 1) alterations or modifications to the media service, including cuts, interruptions, erasures, covering up, replacement or adding of certain elements,
- 2) covering of audiovisual content made available as part of this service,
- 3) modifying commercial communications which are a part of the media service or are transmitted with it,
- 4) reducing the image of an audiovisual media service in order to insert commercial or promotional communications in its vicinity.

2. The consent of the media service provider to alter or modify the media service or otherwise impair its integrity shall be express and given in writing and shall be effective exclusively with respect to the acts specified therein.

3. Paragraph 1 shall not apply to:

- 1) alterations or modifications to the media service initiated or authorised by the recipient for the recipient's personal use, such as overlays of individual communications,
- 2) control elements of any user interface necessary for the operation of the device or programme navigation, such as volume bars, search functions, navigation menus or lists of channels,
- 3) boards and messages containing safety warnings or communications of public interest from public authorities,
- 4) data compression or other techniques to adapt the service to the mode of its distribution, such as resolution or coding, provided they do not modify the content and do not impair the accepted standards of quality, in particular content completeness and comprehensibility by the recipient.

4. Alterations, modifications or other impairments to the integrity of a media service made in accordance with paragraphs 2 and 3 shall not be deemed to be the changes referred to in Article 4 paragraph 8.

**Article 45.1.** The registering authority shall remove the programme service referred to in Article 41 paragraph 1 subparagraph 2 from the register if contents in gross violation of Article 18 paragraphs 1, 4 and 5 were inserted at least twice in the said programme service during the last 12 months.

2. The registering authority shall refuse to register the programme service referred to in Article 41 paragraph 1 subparagraph 1 if contents in gross violation of Article 18 paragraphs 1, 4 and 5 were inserted at least twice in the said programme service during the last 12 months.

3. The registering authority shall remove a retransmitted programme service from the register, if:

- 1) contents in gross violation of Article 18 paragraphs 1, 4 and 5 were inserted at least twice in the said programme service during the last 12 months,
  - 1a) the programme service contains content inciting to commit a terrorist offence or jeopardizing the security and defence of the State;
  - 2) the operator alters the programme service, distributes it not fully or not simultaneously, or covers a part of the retransmitted programme for the purpose of transmitting other communications in violation of Article 44b;
  - 2a) The operator does not provide aids for people with disabilities in the programme service.
- 3) (*repealed*)

4. The refusal to register or the removal from the register, referred to in paragraphs 1 to 3, shall be made in the form of an administrative decision; the provisions of Article 33 paragraph 3 shall apply accordingly to such a decision.

**Article 46** The National Council shall determine, by a regulation, a detailed manner and procedure for keeping the register of programme services transmitted exclusively in an information and communication technology system and of retransmitted programme services, including:

- 1) template of the register,
- 2) template of notification for registration,

- with due regard to a possibility to keep the register and file applications in the information and communication technology system, the necessity to ensure transparency and completeness of information recorded in the register and efficiency of the registering procedure, as well as prevention of impediments affecting media service providers' operations.

**Article 46a.1.** If a broadcaster of a programme service referred to in Article 45 paragraph 3 subparagraph 1 is established in another Member State of the European Union, the National Council shall notify this broadcaster, the regulatory authority of the state in which the said broadcaster is established, and the European Commission of identified infringements and of the intention to remove the retransmitted programme service from the register. The programme service shall be removed from the register if, following consultations held by the National Council with the state in which the broadcaster is established and with the European Commission, the infringements are not discontinued within a month from the notification.

2. If a broadcaster of a programme service referred to in Article 45 paragraph 3 subparagraph 1a is established in another Member State of the European Union, the National Council shall notify this broadcaster, the regulatory authority of the state in which the said broadcaster is established, and the European Commission of an identified infringement and of the intention to remove the retransmitted programme service from the register. Unless the infringements are discontinued, the programme shall be deleted from the register.

3. If the broadcaster referred to in Article 45 paragraph 3 subparagraph 1a is established in another Member State of the European Union and the matter is urgent, then notwithstanding the requirements referred to in paragraph 2, the Chairman of the National Council may remove the programme service from the register within a month from the date of the alleged infringement. In such a case, the National Council shall notify the European Commission and the Member State in which the broadcaster is established of the measures taken and the reasons for which the matter is considered urgent.

4. The Chairman of the National Council shall re-enter the retransmitted programme that had been removed from the register if, within 3 months from the date of its removal, the European Commission issued a decision that the said removal is incompatible with the law of the European Union.

5. If during the proceedings referred to in paragraphs 1 to 3, the Chairman of the National Council considers that a broadcaster fulfils the conditions referred to in Article 1a paragraphs 2 to 4, the Chairman shall without delay notify the European Commission thereof and request that the European Commission designate the country which has jurisdiction over that broadcaster.

**Article 46b.1.** If a programme service of a broadcaster established in another Member State of the European Union is wholly or mostly directed towards the territory of the Republic of Poland, the Chairman of the National Council may request the state in which the broadcaster of this programme service is established to apply a suitable solution in this programme service, including particularly a solution that ensures respect of the rules of protection of public interest, set out in the Act and other provisions.

2. If a suitable solution is not applied within two months following the date of the request referred to in paragraph 1 and the broadcaster of the programme service concerned is established in another Member State of the European Union in order to circumvent the provisions of law applicable in the Republic of Poland, the Chairman of the National Council may notify the European Commission and the state in which the broadcaster is established of its intention to refuse registration of the programme service or to remove the programme service from the register, or of its intention to apply another necessary non-discriminating and proportionate measure provided for in the law, providing the evidence to confirm the circumvention of law applicable in the Republic of Poland, without the need to prove the intention of the media service provider to circumvent more rigorous provisions. The notification shall be substantiated.

3. When assessing whether the programme service referred to in paragraph 1 is wholly or mostly directed towards the territory of the Republic of Poland, the National Council may refer to the criteria such as the origin of the television advertising or subscription revenues, the main language of the service or the

existence of programmes or commercial communications targeted specifically at the public in the Member State where they are received.

4. The Chairman of the National Council may issue a decision on refusal to register or on removal from the register of the programme service referred to in paragraphs 1 and 2 or on another measure, exclusively unless the European Commission takes, within three months following the notification referred to in paragraph 2, a decision that it would be contrary to the European Union law.

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

6. Article 46a paragraph 4 shall apply to the proceedings referred to in paragraphs 1 to 5.

**Article 47.** (*repealed*)

## Chapter 6a

### On-Demand Audiovisual Media Service

**Article 47a.** The provider of on-demand audiovisual media services shall individually create the catalogue of programmes and shall be liable for the content thereof, without prejudice to regulations on liability of other persons for the content of individual programmes, advertisements or other broadcasts.

**Article 47b.** An obligation to provide a certain programme or broadcast to the general public or a ban on providing thereof may be imposed upon the provider of the on-demand audiovisual media service exclusively by virtue of a statutory act.

**Article 47c.1.** The provider of on-demand audiovisual media service shall provide users with an easy, direct and permanent access to information enabling the identification of the service and the provider of on-demand audiovisual media service, in particular the information on:

- 1) the name of the on-demand audiovisual media service,
- 2) last name, name or business name of the service provider,
- 2a) the first and last names of the members of the broadcaster's governing bodies,
- 3) the address of its registered office,
- 4) contact information, including the postal address, e-mail address and website.

1a. The broadcaster providing on-demand audiovisual media service which conducts business in the form of a commercial company or partnership shall ensure to the audience an easy, direct and permanent access to information on the first and last names or business names of:

- 1) partners - when the business is conducted in the form of a general partnership;
- 2) general partners - when the business is conducted in the form of a limited partnership;
- 3) general partners and shareholders whose shareholdings exceed 5% of the founding capital of the broadcaster - when the business is conducted in the form of a limited joint-stock partnership;
- 4) members whose shareholdings exceed 5% of the founding capital of the on-demand audiovisual media service provider - when the business is conducted in the form of a limited liability company;
- 5) shareholders whose shareholdings exceed 5% of the founding capital of the on-demand audiovisual media service provider - when the business is conducted in the form of a joint-stock company;
- 6) shareholders whose shareholdings exceed 5% of the share capital of the on-demand audiovisual media service provider - when the business is conducted in the form of a simple joint-stock company.

1b. The on-demand audiovisual media service provider shall ensure to the audience an easy, direct and permanent access to data identifying the ultimate beneficial owners of a given provider, disclosed in

the Central Register of Beneficial Owners referred to in Article 55 of the Act of 1 March 2018 on the Prevention of Money Laundering and Terrorism Financing.

1c. An on-demand audiovisual media service provider shall ensure to the audience an easy, direct and permanent access to the list of all the media services provided by it, its video sharing platforms and dailies or magazines published by it.

1d. The obligation referred to in paragraph 1c shall also cover media services, video sharing platforms and dailies or magazines supplied or published by entities belonging to the same group of companies as defined in Article 4 subparagraph 14 of the Act of 16 February 2007 on the Protection of Competition and Consumers.

1e. The information referred to in paragraphs 1a to 1d shall be published on the website of the on-demand audiovisual media service provider.

2. The provider of on-demand audiovisual media service shall name the National Broadcasting Council as the regulator competent in matters relating to provision of on-demand audiovisual services and provide the information that it is subject to the jurisdiction of the Republic of Poland.

3. The National Broadcasting Council may determine, by a regulation, the presentation by the provider of on-demand audiovisual media services of the information enabling the identification of the service and the provider of this service, taking into account the integrity of broadcasts, the manner of provision of the service to the general public, the impact on the interests of users and seeking not to encumber the providers with excessive constraints and costs associated with the provision of the information.

**Article 47ca.1.** The provider of an on-demand audiovisual media service shall apply for registration in the list kept in an information and communication technology system which ensures the security of personal data processed therein in accordance with the principle of integrity and confidentiality, by the Chairman of the National Council, not later than 14 days before the date on which the service is to be made available to the public.

2. The application referred to in paragraph 1 shall:

- 1) specify the on-demand audiovisual media service provider, its name or first and last name, its head office or place of residence, mailing address, including electronic mail address, that ensures effective and prompt contact, and its tax identification number (NIP) and business identification number (REGON);
- 2) describe the on-demand audiovisual media service;
- 3) specify the countries in which on-demand audiovisual media services can be received.

3. The Chairman of the National Council shall make the registration on the basis of a decision.

4. The on-demand audiovisual media service provider shall notify the Chairman of the National Council, within 14 days, of any changes in the state of facts or the legal status subject to registration, that arose after the act of registration. The provisions governing the registration shall apply accordingly to notification of changes.

5. The Chairman of the National Council shall refuse, by decision, to register an on-demand audiovisual media service provider in the list if, within a period of 12 months prior to the date of application, the provider was removed from the list in accordance with Article 47ja.

6. The National Council shall determine, by a regulation, the template of the list of on-demand audiovisual media services and the template of the application for registration in the list, taking into account the need to keep the list and accept applications for registration through the information and communication technology system, the need to ensure transparency and completeness of the information in the list and seeking not to encumber the providers of on-demand audiovisual media services with excessive constraints associated with their business.

**Article 47d.** Product placement in programmes and sponsorship of programmes made available as part of on-demand audiovisual media service shall not affect the autonomy and editorial independence of the on-demand audiovisual media service provider, in particular by affecting the content or place of

programmes in the catalogue, and shall not release the provider from liability for the content of programmes.

**Article 47e.1.** It is prohibited to provide to the general public on-demand audiovisual media services that contain, as part of the catalogue of services, programmes or other broadcasts referred to in Article 18 paragraph 4 without applying effective technical safeguards or other appropriate measures to prevent minors from the reception thereof.

2. Taking into account the type of content that may have an adverse impact upon a healthy physical, mental or moral development, the degree of harmfulness of the programme or other broadcast to minors in different age groups, the provider of on-demand audiovisual media service shall appropriately classify and mark programmes and other broadcasts with:

- 1) an appropriate graphic symbol indicating that the content may have an adverse impact upon a healthy physical, mental or moral development of minors, and
- 2) an appropriate graphic symbol indicating the type of content that may have an adverse impact upon a healthy physical, mental or moral development of minors,

- in such a way that the user can easily see the mark, both at the time of selecting the programme and throughout its duration.

3. In consultation with the minister responsible for information technology, the National Broadcasting Council may determine, by a regulation, the detailed conditions to be met by the technical safeguards or other appropriate measures aimed at preventing minors from the reception of the programmes or other broadcasts, referred to in Article 18 paragraph 4, guided by the need to ensure an effective protection of minors against content which is harmful for them, with due regard for the technical feasibility and the degree of harmfulness of the programme or other broadcasts to minors in different age groups as well as the specificities of on-demand audiovisual media services.

4. The National Broadcasting Council shall determine, by a regulation, the characteristic features and the specific conditions of classifying and marking of programmes and other broadcasts as well as appropriate graphic symbols, with due regard for the types of content that may have an adverse impact upon a healthy physical, mental or moral development of minors and the degree of harmfulness of the programme to minors in different age groups as well as the specificities of on-demand audiovisual media services.

5. Personal data of minors collected or otherwise generated by on-demand audiovisual media service providers in connection with the technical safeguards or other appropriate measures designed to protect minors against content that may have an adverse impact on their healthy physical, mental or moral development may not be processed for commercial purposes, such as direct marketing, profiling, behaviourally-targeted advertising or other forms of commercial broadcasts addressed to an audience group of choice of the on-demand audiovisual media service provider and used for these purposes in the provision of this service, other media services or video-sharing platforms.

**Article 47f.1.** Providers of on-demand audiovisual media services shall promote European programmes, including those produced originally in the Polish language, in particular by:

- 1) appropriate identification of origin of programmes available in the catalogue of programmes as well as providing the option to search for European programmes, including those produced originally in the Polish language, or
- 2) posting of information and materials promoting European programmes, including those produced originally in the Polish language.

2. Providers of on-demand audiovisual media services shall allocate at least 30% of the content in their catalogue for European programmes, including those produced originally in the Polish language, and shall provide adequate visibility to such programmes in the catalogue.

3. The percentage referred to in paragraph 2, shall be calculated based on number of programmes in the catalogue during a given calendar quarter. One season of a series shall be treated as one programme.

4. Paragraph 2 shall not apply to:

- 1) catalogues, in which only audiovisual programmes other than European programmes are provided to the general public;
- 2) on-demand audiovisual media service providers that are micro-entrepreneurs within the meaning of Article 7 paragraph 1 subparagraph 1 of the Act of 6 March 2018 - the Entrepreneurs Law;
- 3) on-demand audiovisual media service providers, if the number of users of all their on-demand audiovisual media services made available to the general public in the previous calendar year did not exceed 1% of subscribers to data transmission services offering broadband access to the Internet; whereas the number of users of data transmission services offering broadband access to the Internet is determined on the basis of inventory data referred to in Article 29 paragraph 1 of the Act of 7 May 2010 on Supporting the Development of Telecommunications Services and Networks (official journal "Dz.U." of 2022, item 884).

**Article 47g.1.** On-demand audiovisual media service providers shall ensure accessibility of programmes for visually impaired persons and hearing impaired persons by introducing aids for people with disabilities, so that such aids are provided during by at least 30% of programmes in the public catalogue. On-demand audiovisual media service providers shall inform the National Council and the audience of the programmes with aids for people with disabilities and the nature of those aids.

2. On-demand audiovisual media service providers may be exempted from the obligation referred to in paragraph 1 or may be required to provide such proportion of aids for people with disabilities in on-demand audiovisual media services with a low number of users which is lower than as specified in paragraph 1.

3. On-demand audiovisual media service providers may be exempted from the obligation referred to in paragraph 1 or may be required to provide such proportion of aids for people with disabilities in thematic on-demand audiovisual media services which is lower than as specified in paragraph 1.

4. On-demand audiovisual media service providers shall ensure that information about emergencies, including public communications and announcements on natural disasters, are communicated with aids for people with disabilities, unless it was not possible to communicate the said information with such aids for people with disabilities.

5. Providers of on-demand audiovisual media services shall submit their annual reports for the previous year on compliance with the duties referred to in paragraph 1 to the National Broadcasting Council by 31 of March.

6. The National Council may determine, by a regulation:

- 1) The types of aids for people with disabilities and the proportion of individual types of these aids in the catalogue, depending on the nature of the programme, with due regard for the needs of visually impaired persons and hearing impaired persons and the capacity of on-demand audiovisual media service providers in this regard, as well as developments in broadcasting techniques and aids for people with disabilities;
- 2) The on-demand audiovisual media services in respect of which providers have no obligation to provide aids for people with disabilities, with due regard for the number of users of the given catalogue in the past calendar year, the need to provide extensive aids for people with disabilities and the financial capacity of on-demand audiovisual media service providers;
- 3) A proportion of programmes with aids for people with disabilities in the catalogue which is lower than specified in paragraph 1, with due regard for the thematic nature of the programmes in the catalogue or the number of users of the catalogue in the past calendar year, the need to provide extensive aids for people with disabilities, and the financial capacity of on-demand audiovisual media service providers;
- 4) The mode of informing the National Council and the audience of programmes with aids for people with disabilities and the type of those aids, with due regard for the needs of the audience, including visually impaired persons and hearing impaired persons and the capacity of on-demand audiovisual media service providers;



**Article 47h.** Programmes provided as part of on-demand audiovisual media services may not include contents inciting to hatred or violence or contents which are discriminatory on grounds of gender, race, colour of skin, ethnic or social origin, genetic features, language, religion or belief, political views or any other opinions, nationality, membership of a national minority, wealth, birth, disability, age or sexual orientation or incitement to commit a terrorist offence.

**Article 47i.** Providers of on-demand audiovisual media services shall retain copies of programmes, commercial communications and other broadcasts provided to the general public for a period of not less than 28 days from the date of their removal from the catalogue or discontinued provision thereof and to present them to the Chairman of the National Broadcasting Council upon receipt of the request referred to in Article 10 paragraph 2.

**Article 47j.1.** Providers of on-demand audiovisual media services shall submit annual reports to the National Broadcasting Council on compliance with the duties referred to in Article 47e paragraphs 1 and 2, Article 47f and Article 47g paragraphs 1 to 4.

2. The said report shall contain:

- 1) data of the provider as defined in the Articles 47c paragraph 1 together with the description of the manner of providing the audiovisual media service to the general public;
- 2) the description of the types of technical safeguards or other appropriate measures to prevent minors from the reception thereof, applied by the provider;
- 3) the description of the manner of promoting European programmes, including those originally produced in the Polish language, applied by the given provider, including the share of these programmes in the catalogue in terms of volume and time;
- 4) information on the proportion of programmes with aids for people with disabilities in the catalogue with an indication of the proportion of each types of these aids.

3. The report shall be submitted by 31 March for the previous year.

**Article 47ja.1.** The Chairman of the National Council may, by decision, following the call referred to in Article 10 paragraph 3, remove from the list an on-demand audiovisual media service provider which has, on at least two occasions during the past 12 consecutive months, provided programmes or other broadcasts prejudicial to healthy physical, mental or moral development of minors, in particular those containing pornographic content or exhibiting gratuitous violence without applying effective technical safeguards or other appropriate measures to protect minors from the reception thereof.

2. The Chairman of the National Council shall not proceed with the removal referred to in paragraph 1 if, after having received the call referred to in Article 10 paragraph 3, the on-demand audiovisual media service provider implements effective technical safeguards or other appropriate measures to protect minors within the deadline specified in that call.

3. If the provider is established in another Member State of the European Union, the Chairman of the National Council may, by decision, prohibit the provision of the on-demand audiovisual media service on the territory of the Republic of Poland if at least two occasions during the past 12 consecutive months, the said on-demand audiovisual media service provided content which is prejudicial to healthy physical, mental or moral development of minors, in particular a pornographic content or content exhibiting gratuitous violence without applying effective technical safeguards or other appropriate measures to protect minors from the reception thereof. Article 46a shall apply accordingly.

4. Where a decision referred to in paragraph 1 has been issued, the penalty referred to in Article 53c shall not be imposed in respect of the infringement which is the basis for that decision.

**Article 47k.** The provisions of Article 16 paragraph 1, Article 16b paragraphs 1 to 3a, Article 16c, Article 17 paragraphs 1 to 2, 4, 5, 6a and 7, Article 17a paragraphs 1 to 3, 5 and 6 as well as regulations issued based on Article 16b paragraph 3b, Article 17 paragraph 8, except for the provisions relating to registration of sponsored programmes or other broadcasts, as well as regulations issued pursuant to Article 17a paragraph 9 on the special conditions of marking of programmes with product placement with a special graphic mark by the broadcaster shall apply to on-demand audiovisual media services.

Chapter 6b  
**Video Sharing Platforms**

**Article 47l.** An obligation or a prohibition to post a particular programme, user-generated video or other communication on a video-sharing platform may only be imposed upon a provider of a video sharing platform exclusively by virtue of a statutory act.

**Article 47m.1.** The provider of a video sharing platform shall provide users with an easy, direct and permanent access to information on:

- 1) name of the video sharing platform,
- 2) first and last name, name or business name of the service provider,
- 3) the address of its registered office,
- 4) contact information, including the postal address, e-mail address and website.

2. The provider of a video sharing platform conducting business in the form of a commercial company or partnership shall ensure to the audience an easy, direct and permanent access to information on the first and last names or business names of:

- 1) partners - when the business is conducted in the form of a general partnership;
- 2) general partners - when the business is conducted in the form of a limited partnership;
- 3) general partners and shareholders whose shareholdings exceed 5% of the founding capital of the provider - when the business is conducted in the form of a limited joint-stock partnership;
- 4) members whose shareholdings exceed 5% of the founding capital of the provider - when the business is conducted in the form of a limited liability company;
- 5) shareholders whose shareholdings exceed 5% of the founding capital of the provider - when the business is conducted in the form of a joint-stock company;
- 6) shareholders whose shareholdings exceed 5% of the share capital of the provider - when the business is conducted in the form of a simple joint-stock company.

3. The provider of a video sharing platform shall ensure to the audience an easy, direct and permanent access to data identifying the ultimate beneficial owners of a given provider, disclosed in the Central Register of Beneficial Owners referred to in Article 55 of the Act of 1 March 2018 on the Prevention of Money Laundering and Terrorism Financing.

4. The provider of a video sharing platform shall ensure to the audience an easy, direct and permanent access to the list of all the media services provided by it, its video sharing platforms and dailies or magazines published by it.

5. The obligation referred to in paragraph 4 shall also cover media services, video sharing platforms and dailies or magazines supplied or published by entities belonging to the same group of companies as defined in Article 4 subparagraph 14 of the Act of 16 February 2007 on the Protection of Competition and Consumers.

6. The provider of a video sharing platform shall name the National Broadcasting Council as the regulator competent in matters relating to provision of video sharing platforms.

7. The information referred to in paragraphs 1 to 6 shall be published on the provider's website.

8. The National Broadcasting Council may determine, by a regulation, the presentation by the provider of video sharing platform of the information referred to in paragraphs 1 to 6, taking into account the integrity of broadcasts, the manner of provision of the platform and the impact on the interests of users and seeking not to encumber the providers with excessive constraints and costs associated with the provision of the information.

**Article 47n.1.** The provider of a video sharing platform shall apply for registration in the list kept in an information and communication technology system which ensures the security of personal data processed therein in accordance with the principle of integrity and confidentiality, by the Chairman of the National Council, not later than 14 days before the date on which the service is to be made available to the public.

2. The application referred to in paragraph 1 shall:

- 1) specify the provider of a video sharing platform, its head office or place of residence, mailing address, including electronic mail address, that ensures effective and prompt contact, and its tax identification number (NIP) and business identification number (REGON);
- 2) describe the video sharing platform,
- 3) specify the countries in which video sharing platform can be received.

3. The Chairman of the National Council shall make the registration on the basis of a decision.

4. The provider of a video sharing platform shall notify the Chairman of the National Council, within 14 days, of any changes in the state of facts or the legal status subject to registration, that arose after the act of registration. The provisions governing the registration shall apply accordingly to notification of changes.

5. The National Council shall determine, by a regulation, the template of the list of video sharing platforms and the template of the application for registration in the list, taking into account the need to keep the list and accept applications for registration through the information and communication technology system, the need to ensure transparency and completeness of the information in the list and seeking not to encumber the providers of video sharing platforms with excessive constraints associated with their business.

**Article 47o.1.** It is prohibited to post, on video sharing platforms, any programmes, user-created videos or other communications that:

- 1) are prejudicial to healthy physical, mental or moral development of minors, in particular those containing pornographic content or exhibiting gratuitous violence without applying effective technical safeguards referred to in Article 47p paragraph 1;
- 2) contain incitement to violence or hatred towards a group of people based on sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, nationality, membership of a national minority, wealth, birth, disability, age or sexual orientation;
- 3) contain content that may facilitate the commission of a terrorist offence, pornographic content with the participation of a minor, content inciting to insults to a group of people or an individual based on their nationality, ethnic, racial or religious affiliation or lack of religious denomination.

2. The video sharing platform provider shall apply countermeasures against publication of the content referred to in paragraph 1.

**Article 47p.1.** A video sharing platform provider shall:

- 1) develop and operate effective technical safeguards, including parental control systems or other appropriate measures, to protect minors from access to programmes, user-created videos or other communications that are prejudicial to physical, mental or moral development of minors, in particular those containing pornographic content or exhibiting gratuitous violence;
- 2) enable users of the video-sharing platform to classify their uploaded programmes, user-created videos or other communications referred to in Article 47o paragraph 1 subparagraph 1 and to apply technical safeguards referred to in subparagraph 1 to programmes, user-created videos or other communications uploaded by them.

2. The National Broadcasting Council may determine, by a regulation, the detailed conditions to be met by effective technical safeguards and other appropriate measures aimed at preventing minors from the reception of the programmes, user-created videos or other communications referred to in paragraph 1, guided by the need to ensure an effective protection of minors against content which is harmful for them, with due regard for the technical feasibility and the degree of harmfulness of the programmes, user-created

videos or other communications to minors in different age groups as well as the specificities of video sharing platforms.

3. The National Broadcasting Council shall determine, by a regulation, the characteristic features and the specific conditions of classifying and marking of programmes, user-created videos or other communications as well as appropriate graphic symbols, taking into account the degree of harmfulness of the programmes, user-created videos or other communications to minors in different age groups as well as the specificities of video sharing platforms.

4. Personal data of minors collected or otherwise generated by video sharing platforms providers in connection with compliance with Article 47o paragraph 1 and provisions issued on the basis of paragraph 2 may not be processed for commercial purposes, such as direct marketing, profiling, behaviourally-targeted advertising or other forms of commercial communications addressed to an audience group of the provider's choice, and used for these purposes in the provision of this platform, other video sharing platforms or media services.

**Article 47q.1.** The provisions of Article 16 paragraph 1, Article 16b paragraphs 1 to 3, Article 16c paragraph 1, Article 17 and Article 17a shall apply accordingly to commercial communications published on a video-sharing platform by its provider, as well as to commercial communications promoted or sold by that provider.

2. The National Council may determine, by a regulation, the manner in which commercial communications in programmes, user-generated videos and other communications published on a video-sharing platform shall be separated and marked as such, before and after their start, and commercial communications placed on a video-sharing platform but having no connection with programmes or user-generated video, shall be separated and marked as such, with a view to protecting the interests of the audience and the autonomy of video-sharing platform providers and with due regard for the development of advertising techniques and the specific attributes of operations of video-sharing platform providers.

**Article 47r.** In the terms of provision of electronic services, the provider of the video sharing platform shall specify in particular the following:

- 1) information on the characteristics and detailed conditions for the classification and marking of programmes, user-created videos or other communications and the templates for the relevant graphic symbols, as laid down in the regulation issued based on Article 47p paragraph 3;
- 2) information about the regulation referred to in Article 47q paragraph 2 and, in the absence thereof, the rules on the inclusion of commercial communications in programmes, user-created videos and other communications uploaded by users on the video-sharing platform;
- 3) the procedure for reporting that the content posted on a video-sharing platform violates the prohibition laid down in Article 47o paragraph 1, and the procedure for the examination of the reported violations, including deadlines and the mode of responding to the users' reports;
- 4) the criteria for assessing the compliance of the programmes, user-created videos and other communications with Article 47o;
- 5) information concerning lodging complaints against decisions of the video-casting platform provider, referred to in Article 47t paragraphs 1 and 2 and Article 47u, and information concerning other legal remedies available to users of video-sharing platforms against decisions of the video-sharing platform provider;
- 6) information on the scope and purpose of the processing of personal data of users of the video sharing platform.

**Article 47s.1.** The provider of a video-sharing platform shall provide transparent and user-friendly mechanisms for the users of that platform to report content published on the video-sharing platform which violates the prohibition laid down in Article 47o.

2. The provider of the video sharing platform shall respond to users immediately, in any case not later than 48 hours after the report referred to in paragraph 1.

3. The National Council may determine, by a regulation, the procedure for reporting that the content posted on a video-sharing platform violates the prohibition laid down in Article 47o paragraph 1, and the procedure for responding to the users' reports, with due regard for the need to provide users with easy access to reporting and a prompt report handling procedure, given the technical feasibility and specificities of video-sharing platforms.

**Article 47t.1.** After requesting the user to remedy the violation within a set period of time, the provider of a video-sharing platform shall prevent access to the programmes, user-created videos or other communications posted on the video-sharing platform by the user which:

- 1) are prejudicial to healthy physical, mental or moral development of minors, if the user of the video sharing platform did not classify them in accordance with the provisions issued on the basis of Article 47p paragraph 3;
- 2) are non-compliant with Article 47o paragraph 1 subparagraphs 2 and 3;
- 3) contain commercial communications that are non-compliant with Articles 16 paragraph 1, 16b paragraphs 1 to 3, Article 16c paragraph 1, Article 17 and Article 17a or provisions adopted pursuant to Article 47q paragraph 2 or, in the absence thereof, which are not marked in accordance with the terms of service referred to in Article 47r.

2. The provider of the video-sharing platform may ban a user from uploading programmes, user-generated videos or other communications on the video-sharing platform for a period of up to three months in the event that the user uploaded the programmes, user-generated videos or other communications referred to in paragraph 1 at least twice, despite being requested to cease the violations.

3. The provider of the video-sharing platform may permanently ban a user from uploading programmes, user-generated videos or other communications on the video-sharing platform in the event that the user uploads the programmes, user-generated videos or other communications referred to in Article 47o paragraph 3.

4. The decision of the video sharing platform provider referred to in paragraphs 1 to 3 shall contain a statement of reasons and shall be communicated to the user without delay.

5. A user may complain against the decision of the video sharing platform provider referred to in paragraphs 1 to 3 to the National Council.

6. The Chairman of the National Council may, by the decision referred to in Article 10 paragraph 4, impose an order upon the provider of the video sharing platform to:

- 1) prevent access to programmes, user-created videos or other communications uploaded on that platform which are non-compliant with Article 47o, or
- 2) restore access to programmes, user-created videos or other communications uploaded on that platform by its user, or
- 3) restore to a user of the video sharing platform the freedom to upload programmes, user-created videos or other communications on the video sharing platform.

7. Article 10 paragraph 3 shall not apply in the event of issuing the decision referred to in paragraph 6.

8. To the extent regulated in this Chapter, the provisions of Article 14 of the Act of 18 July 2002 on Provision of Services via Electronic Mean shall not apply.

**Article 47u.1.** A dispute concerning the handling of the reported violation referred to in Article 47s paragraph 1 between a user of a video sharing platform and a provider of a video sharing platform may be resolved amicably by mediation.

2. The mediator shall be a natural person with a degree in law and expertise and experience in the field of media, who is registered in the list of mediators kept by the Chairman of the National Council.

3. The provisions of Articles 183<sup>1</sup> to 183<sup>7</sup> and Articles 183<sup>11</sup> to 183<sup>15</sup> of the Code of Civil Procedure shall apply accordingly to mediation.

**Article 47v.** Providers of video sharing platforms shall retain copies of programmes, user-created videos, commercial communications and other communications provided to the general public for a period of not less than 28 days from the date of their removal from the video sharing platform or discontinued sharing thereof and to present them to the Chairman of the National Broadcasting Council upon receipt of the request referred to in Article 10 paragraph 2.

**Article 47w.** Providers of video sharing platforms shall promote media literacy among users by promoting awareness of their rights and obligations and of the rights and obligations of providers of video sharing platforms under Article 47l, Article 47m paragraphs 1 to 6, Article 47o paragraph 1, Article 47p paragraph 1, Article 47q paragraph 1, Article 47r, Article 47s paragraphs 1 and 2, Article 47t and Article 47u.

Chapter 7  
(*repealed*)

Chapter 8  
**Liability under the Law**

**Article 52.1.** Transmission of a radio or television programme service without a licence shall be:

- punishable by a fine, limitation of liberty or deprivation of liberty of up to 2 years.

2. Retransmission of a radio or television programme service without registration shall be:

- punishable by a fine, limitation of liberty or deprivation of liberty of up to 1 year.

**Article 53.1.** If a broadcaster fails to comply with the obligations laid down in Article 14a paragraphs 1 and 2, Article 15 paragraphs 1, 2 and 3, Article 15a paragraph 1, Article 16 paragraphs 1 to 6, Article 16a, Article 16b paragraphs 1 to 3, Article 16c, Article 17 paragraphs 1 to 7, Article 17a paragraphs 1 to 7, Article 18 paragraphs 1 to 5b and 7, Article 18a paragraph 1 and 1a, Article 20 paragraph 1, Article 20b paragraphs 1 and 6, Article 20c paragraphs 1 to 5, Article 37c paragraphs 1 and 2, Article 43 paragraph 2 or Article 43a paragraph 1 or under the provisions issued pursuant to Article 14a paragraph 3, Article 15 paragraph 4, Article 15a paragraphs 6 and 7, Article 16 paragraph 7, Article 16b paragraph 3b, Article 17 paragraph 8, Article 17a paragraph 9, Article 18 paragraph 6, Article 18a paragraph 2 or Article 37c paragraph 3 or fails to comply with the request referred to in Article 43a paragraph 2, the Chairman of the National Council shall issue a decision imposing a fine upon such a broadcaster in the amount of up to 50% of the annual fee for the right to use the frequency allocated for providing the programme service by terrestrial diffusion, while broadcasters who do not pay for the right to use the frequency shall be liable to a fine of up to 10% of the revenues generated by the broadcaster in the preceding tax year with due regard for the degree and scope of harmfulness of such violation, the operations of the broadcaster to date and its financial capacity.

2. The Chairman of the National Council may impose the fine referred to in paragraph 1 also by virtue of a decision issued under Article 10 paragraph 4.

3. The fine shall be paid from net income after tax or from another surplus of revenues over expenditure, after tax.

4. The fine may not be imposed if over one year elapsed from the violation of the obligations referred to in paragraph 1.

**Article 53a.1.** If a media service provider transmits a television programme service in an information and communication technology system without registration, the Chairman of the National Council shall issue a decision imposing upon the broadcaster a fine amounting up to 10% of the broadcaster's revenue generated in the preceding tax year. Provisions of Article 53 paragraphs 3 and 4 shall apply accordingly.

2. In the first year of pursued operations, the fine referred to in paragraph 1 shall not exceed ten-times the average monthly remuneration in the enterprises sector in the quarter preceding the issue of the decision

imposing the fine, including payments from profit, announced by the President of the Central Statistical Office in the Official Journal “Monitor Polski” of the Republic of Poland.

**Article 53b.1.** If an operator that retransmits a programme service violates the obligation referred to in Article 43 paragraph 1 or Article 43a paragraph 3, the Chairman of the National Council shall issue decision imposing a fine of up to 10% of the revenue generated by this operator in the preceding tax year, with due regard for the degree and scope of harmfulness of such violation, the operator’s operations to date and its financial capacity.

2. In case the operator referred to in paragraph 1 has operated for less than one calendar year, the assessment basis for the fine shall be PLN 500 thousand.

2a. If an entity that introduces changes, modifications or other infringements of integrity of a media service referred to in Article 44b impairs the integrity of that media service in contravention of Article 44b, it shall be liable in accordance with the principles set out in paragraphs 1 and 2.

3. The Chairman of the National Council may request the operator referred to in paragraph 1 to provide explanations, submit documents, in particular the annual financial statements for the preceding tax year, with regard to the fulfilment of the obligation referred to in Article 43 paragraph 1 or Article 43a paragraph 3.

**Article 53c.1.** If the provider of the on-demand audiovisual media services violates Article 16 paragraph 1, Article 16b paragraphs 1 to 3a, Article 16c, Article 17 paragraphs 1 to 2, 4, 5, 6a and 7, Article 17a paragraphs 1 to 3, 5 and 6, Article 47a, Article 47b, Article 47c paragraphs 1 to 2, Article 47ca paragraphs 1 and 4, Article 47d, Article 47e paragraphs 1, 2 and 5, Article 47f paragraphs 1 and 2, Article 47g paragraphs 1, 4 and 5, Article 47h or Article 47i or provisions issued under Article 16b paragraph 3b, Article 17 paragraph 8, except for the provisions relating to registration of sponsored programmes or other broadcasts, Article 17a paragraph 9 as regards special conditions of marking of programmes with product placement with a special graphic mark by the broadcaster, as well as provisions issued on the basis of Article 47c paragraph 3, Article 47e paragraphs 3 and 4, and Article 47g paragraph 6, the Chairman of the National Broadcasting Council shall issue a decision imposing a fine upon such a provider in the amount of up to twenty times the average monthly remuneration in the corporate sector, including profit distributions, in the quarter preceding the issue of the decision on the said fine, announced by the President of the Central Statistical Office in the Official Journal of the Republic of Poland “Monitor Polski”.

2. When determining the value of the imposed fine, the Chairman of the National Broadcasting Council shall take due regard of the degree and extent of the harmfulness of the violation and to-date operations of the provider of the on-demand audiovisual media services.

3. The fine may be imposed again after the lapse of 30 days from the expiry of the deadline for the payment of the previous fine, if the provider of the on-demand audiovisual media services failed to discontinue the violations.

4. The decision on the fine may not be issued, if two years elapsed from the violation of the obligations referred to in paragraph 1.

**Article 53d.1.** In the case of failure to deliver the report within a time limit referred to in Article 47j paragraph 3, following an ineffective notice referred to in Article 10 paragraph 2 to file the report within a time limit of 14 days from the date of receipt of the said notice, the Chairman of the National Broadcasting Council may issue a decision imposing a fine upon the person who manages the operations of the provider of the on-demand audiovisual media service in the amount not exceeding PLN 1 000.

2. The fine may be imposed again after the lapse of 30 days from the expiry of the deadline for the payment of the previous fine in the case of continued non-compliance with the obligation to deliver the report by the provider of the on-demand audiovisual media services.

3. The decision on the fine may not be issued if a year has elapsed from the time limit referred to in Article 47j paragraph 3.

**Article 53e.1.** If the provider of a video sharing platform violates Article 47m paragraphs 1 to 6, Article 47n paragraphs 1 and 2, Article 47p paragraph 1, Article 47q paragraph 1, Article 47r, Article 47s paragraphs 1 and 2, Article 47w or provisions issued under Article 47m paragraph 8, Article 47p paragraphs 2 and 3, Article 47q paragraph 2, Article 47s paragraph 3 or if a video-sharing platform posts programmes

or user-made videos which are non-compliant with Article 47o paragraph 1 subparagraphs 2 and 3 or which prejudice a healthy physical, mental or moral development of minors, not classified in accordance with the provisions issued pursuant to Article 47p paragraph 3, and fails to cease those violations within 14 days of being served with a notice as referred to in Article 10 paragraph 3, the Chairman of the National Broadcasting Council shall issue a decision imposing a fine upon such a provider in the amount of up to twenty times the average monthly remuneration in the corporate sector, including profit distributions, in the quarter preceding the issue of the decision on the said fine, announced by the President of the Central Statistical Office in the Official Journal of the Republic of Poland “Monitor Polski”.

2. When determining the value of the imposed fine, the Chairman of the National Broadcasting Council shall take due regard of the degree and extent of the harmfulness of the violation and to-date operations of the provider of the video sharing platform.

3. The fine may be imposed again if the video-sharing platform provider fails to remedy the violation within 30 days of the decision referred to in paragraph 1 becoming final and binding.

4. The decision on the fine may not be issued, if two years elapsed from the violation of the obligations referred to in paragraph 1.

**Article 54.1.** If a person who manages the media service provider’s operations fails to carry out the decisions issued under Article 10 paragraph 4, the Chairman of the National Council may, by a decision, impose a fine upon such a person; however, such fine shall not exceed the person's six-month remuneration.

2. The same fine may be imposed upon a person who manages the media service provider’s operations for failure to provide information or for providing inaccurate information requested by the Chairman of the National Council under Article 10 paragraph 2.

2a. If a public radio and television broadcasting company fails to comply with the recommendations or corrective measures for the public service remit referred to in Article 31b paragraph 3, the Chairman of the National Council may issue a decision imposing on the person in charge of the operations of the public radio and television broadcasting company a financial penalty not exceeding the amount of ten-times the average monthly remuneration in the enterprises sector in the quarter preceding the issue of the decision imposing the fine, including payments from profit, announced by the President of the Central Statistical Office in the Official Journal “Monitor Polski” of the Republic of Poland.

3. A decision imposing a fine may not be issued if two years have elapsed from the date of issuing the decision referred to in paragraph 1.

**Article 55** The fines referred to in Articles 53 and 54 shall be payable to the state budget.

**Article 56.1.** Decisions of the Chairman of the National Council issued under Article 10 paragraph 4 and Articles 53 and 54 may be appealed against to the Regional Court (Sąd Okręgowy) in Warsaw – the Commercial Court.

2. The provisions of the Code of Civil Procedure relating to counteracting monopolistic practices shall apply accordingly to the procedure in cases involving appeals against the decisions referred to in paragraph 1.

3. In case a decision of the Chairman of the National Council is appealed against to the court, the appealing person may not rely on the remedies to appeal against the said decision provided for in the Code of Administrative Procedure, particularly as regards resumption of the procedure, reversal, change or declaration of invalidity of the decision.

## Chapter 9

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

**Articles 57-62.** *(omitted)*

**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



operations of the state organisational unit “Polish Radio and Television” until registration of the companies referred to in Article 26 paragraphs 2 and 3.

2. The tasks of the Committee and its President defined in the existing legislation with regard to the production and transmission of radio and television programme services shall be transferred to public radio and television broadcasting organisations, to be implemented in accordance with their tasks defined in their statutes and by the applicable legislation.

3. The tasks of the Committee and its President defined in the existing legislation and relating to state administration shall be transferred to the National Council.

4. The functions of the founding body of state-owned enterprises and supervisory functions over research and development units subordinate to the Committee shall be transferred to the Chairman of the National Council.

5. Permits to use telecommunications equipment for broadcasting radio and television programme services shall expire on the day on which a broadcaster who has been assigned the frequency heretofore used for broadcasting a programme service commences to operate in the same area, however, not later than within a year from the date the Act comes into force.

6. The provision of paragraph 5 shall not apply to permits issued under the act referred to in Article 59.

7. The provision of Article 52 shall not apply to broadcasters holding permits referred to in paragraph 5 and broadcasters holding permits issued under the act referred to in Article 59.

8. Entities which retransmit programme services in cable networks shall adjust their operations in order to comply with the provisions of Chapter 6 within 6 months from the date the Act comes into force.

**Article 64.1.** The minister in charge of the State Treasury shall establish:

- 1) the company referred to in Article 26 paragraph 2 having its head office 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 head office in Warsaw and the companies referred to in Article 26 paragraph 3 subparagraph 2 having their head offices 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 head office in towns other than those referred to in paragraph 1 subparagraph 2.

3. The minister in charge of the State Treasury shall agree the statutes of the companies referred to in paragraphs 1 and 2 with the National Council. The statutes of the company referred to in Article 26 paragraph 2 may provide for regional branches in locations other than those referred to in paragraph 1 subparagraph 1.

4. The first Boards of Management of the companies referred to in paragraphs 1 and 2 shall be appointed by the National Council.

**Article 65.1.** The minister in charge of the State Treasury shall transfer the property remaining after the liquidation of the state organisational unit “Polskie Radio i Telewizja”, hereinafter referred to as PRTV, to the companies referred to in Article 64 paragraph 1.

2. Within 1 month from the date on which this Act comes into force, the Council of Ministers shall determine, by a regulation, the detailed procedure of taking an inventory of the property referred to in paragraph 1, its division and transfer as well as settlement of any disputes in this regard.

3. Actions executed with a view to implement Article 64 paragraphs 1 and 2 shall be exempt from court fees and stamp duties; regulations governing the transformation of state enterprises into companies shall apply accordingly to notary's fees for establishing the said companies.

**Article 66.1.** Land owned by the State Treasury and administered by PRTV on the date of entry of this Act into force shall, on the date of registration of the companies, be transferred to them to be held under the title of perpetual usufruct by operation of the law. Provisions of Article 41 paragraph 1 of the Act of 29

April 1985 on Land Management and Expropriation of Real Property (official journal "Dz.U." of 1991, item 127, item 446 and item 464) shall not apply in respect of the first fee for perpetual usufruct.

2. Buildings and other facilities as well as premises located on land owned by the State Treasury and administered by PRTV on the date the Act comes into force shall, on the date of registration of the companies, become their assets by operation of the law. Acquisition of the ownership titles shall be free of all charge.

3. Acquisition of the title to perpetual usufruct of land referred to in paragraph 1 and the ownership title to the buildings, other facilities and premises referred to in paragraph 2, shall be effected by virtue of a decision of the Voivode. The said decision shall also determine the conditions of perpetual usufruct of land, in accordance with the provisions of Article 236 of the Polish Civil Code.

**Article 67.1.** Employees of PRTV shall, by operation of the law, become employees of the respective company, subject to the provision of paragraph 2.

2. Employment relationship of executive officers, determined by the National Council, shall cease, by operation of the law, on the date of registration of the companies in the commercial register. Such cessation of employment relationship shall be equivalent, in terms of its legal consequences, to termination of employment relationship as a result of termination of the employment contract by the employer. These employees may be employed in the company on terms agreed upon by the parties.

3. The companies shall be responsible for liabilities arising out of employment relationship which arose prior to the companies' entry in the commercial register.

**Article 68.1.** The rights and liabilities of the Committee and PRTV arising out of administrative decisions shall, by operation of the law, be transferred to the companies.

2. *(omitted)*

3. *(omitted)*

4. *(omitted)*

**Article 69.** *(omitted)*

**Article 70.1.** The Act of 2 December 1960, on the Committee for Radio and Television "Polskie Radio i Telewizja" (official journal "Dz.U.", item 307; of 1984, item 275) shall hereby be repealed.

2. *(omitted)*

**Article 71.** The Act shall come into force within a month of its publication, with the exception of Article 52, which shall come into force on 1 July 1993.