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July 18, 1998	amended by	Dz.U.98.82.532
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**REGULATION
OF THE NATIONAL BROADCASTING COUNCIL**

of June 2, 1993

**concerning the contents of an application and detailed procedures for awarding and revoking
broadcasting licences to transmit radio and television programme services.**

(official journal “Dz.U.” of June 23, 1993)

Pursuant to Article 37 paragraph 4 of the Broadcasting Act of December 29, 1992 (official journal "Dz.U." of 1993, No. 7, item 34), it is hereby ordered as follows:

§ 1.

Any reference in this Regulation to:

- 1) "Act" shall be construed as a reference to the Broadcasting Act of December 29, 1992 (official journal “Dz.U.” of 1993, No. 7, item 34),
- 2) "National Council" shall be construed as a reference to the National Broadcasting Council,
- 3) "Chairman of the National Council" shall be construed as a reference to the Chairman of the National Broadcasting Council.

§ 2.

An application for awarding a broadcasting licence to broadcast a radio or television programme service shall specify and contain the following:

- 1) designation of the applicant, stating the nationality in case of natural persons,
- 2) the seat (in case of legal persons) or permanent residence (in case of natural persons) and address of the applicant,
- 3) the announcement concerning availability of broadcasting licences, underlying the application and the broadcasting licence sought by the applicant,
- 4) the type of activity (radio/television programme service), coverage area of the programme service, nature of the programme service (universal, thematic programme service – including identification of the main theme of the programme service),

- 5) the projected daily (minimum and maximum) as well as annual transmission time of the programme service, and a weekly schedule of the programme service,
- 6) the declared date of commencing the activity after obtaining the broadcasting licence,
- 7) the method of transmitting the programme service (by terrestrial diffusion, satellite, cable system), and in case of a programme service transmitted by terrestrial diffusion – administrative area on which the programme service is to be received, corresponding to the location and transmission power indicated in the announcement, and in case of a radio programme service transmitted by terrestrial diffusion – also the range of radio frequencies (ultra-high frequency, short and medium waves),
- 8) the proposed broadcasting licence validity,
- 9) the planned share of programmes produced or commissioned by the applicant or co-produced by the applicant jointly with other broadcasters, in the programme service,
- 10) the planned share of programming blocks transmitted in another programme service of the applicant, in the daily transmission time of the programme service,
- 11) the planned share of the following programmes in the quarterly transmission time of a television programme service (excluding news, advertising, teleshopping, sports events, teletext services and games):
 - a) originally produced in the Polish language,
 - b) originally produced in the Polish language by independent producers,
 - c) produced by European producers,
 - d) produced by European independent producers.
- 12) information on the activity of the broadcaster as well as partners or shareholders of the applicant company, in the field of radiocommunications and mass media in the period of 5 years prior to filing the application,
- 13) a declaration on legal proceedings against the applicant in relation to the activity referred to in point 12, in particular on proceedings based on the provisions on radiocommunications contained in the Act on Communications of November 23, 1990 (official journal "Dz.U." of 1995, No. 117, item 564; of 1996, No. 106, item 496; of 1997, No. 43, item 272, No. 88, item 554, No. 106, item 675, No. 121, item 770 and No. 137, item 926; of 1998, No. 137, item 887 and No. 150, item 984; and of 1999, No. 47, item 461), on the provisions of the Press Law of January 26, 1984 (official journal "Dz.U." No. 5, item 24; of 1988, No. 41, item 324; of 1989, No. 34, item 187; of 1990, No. 29, item 193; of 1991, No. 100, item 442; of 1996, No. 114, item 542; of 1997, No. 88, item 554 and No. 121, item 770; and of 1999, No. 90, item 999), on the Act on Copyright and Neighbouring Rights of February 4, 1994 (official journal "Dz.U." No. 24, item 83 and No. 43, item 170; and of 1997, No. 43, item 272 and No. 88, item 554); Article 202, Article 212 and Article 216 of the Penal Code; and Article 23 and Article 24 of the Civil Code,
- 14) a declaration stating that the data contained in the application and the documents attached thereto are true and accurate.

§ 3.

The following documents and information shall be enclosed with the application for a broadcasting

licence:

- 1) a document certifying that the applicant conducts business activity and defining the scope of the said activity,
- 2) if the applicant is a company:
 - a) an authenticated copy of the articles of association or statutes of the company and a valid excerpt from the commercial register,
 - b) personal data (name and surname, nationality, place of residence, identity card particulars, place of employment) of shareholders holding at least 5% of shares in the share capital of the company, stating the proportion of their contribution to this capital; in case of companies owned by legal persons, basic information about the legal status and financial standing of the said persons shall be provided,
 - c) personal data of members of the board of management and the supervisory board,
 - d) personal data of the members of the board of management and the supervisory board of a company holding at least 15% of shares in the applicant company; in case of a legal person other than a company, personal data of members of the managing, supervisory and controlling bodies of the said person shall be provided,
 - e) a list of shareholders being foreign entities as defined by the Act on Companies with Foreign Shareholding of June 14, 1991 (official journal "Dz.U." No. 60, item 253; of 1991, No. 80, item 350 and No. 111, item 480), stating the proportion of their contribution to the share capital and the total contribution of foreign entities to this capital,
 - f) declarations of persons listed in letters b) and c) on shares held in other companies and membership in governing bodies of these companies,
- 3) if the applicant is a legal person other than a company:
 - a) the founding deed of such person, its statutes and a valid excerpt from the relevant register,
 - b) personal data of members of the managing, supervisory and controlling bodies of such person,
- 4) documented information about funds possessed by the applicant, real estate related to the subject matter of the application and financial participation in other business entities,
- 5) information about production and post-production facilities in the possession or under planning by the applicant within the scope of the application,
- 5a) a document stating the possibility to use a transmitter station at the sought location (confirmed intention to conclude a contract for provision of transmission services by a professional operator of a transmitting facility, or a copy of a contract for provision of such services),
- 6) a business plan, including an investment plan,
- 7) a balance sheet and a profit & loss account for the last calendar year, and in case of entities not obligated to prepare a balance sheet, a profit & loss account of their business activity for the last year,
- 8) a certificate from the bank keeping the main current account of the applicant, specifying the amount of deposited funds and credit score of the applicant,
- 9) a list of major creditors and debtors of the applicant, stating the amount of debt or claim,
- 10) (deleted),
- 11) other information regarding human resources and programme service production capacity,

rights to radio and television programmes, contracts for production or co-production of programmes,

12) programming information, in particular:

- a) programming guidelines arising from the tasks specified in Article 1 paragraph 1 of the Act and a method of their implementation,
- b) the planned weekly programme schedule for the first year of the transmission of the programme service, with regard to the following components of the programme service:
 - for television: programmes and programming blocks covering news, commentaries, entertainment, education, practical advice, religion, sports, film, theatre, other drama forms, advertising, and other,
 - for radio: programmes and programming blocks covering news, commentaries, entertainment, education, practical advice, religion, sports, reports, literary works, theatre and other drama forms, music, advertising, and other,
- c) planned forms of cooperation with other broadcasters,
- d) the planned percentage share of all types of programmes in the weekly transmission time,
- e) characteristic features of planned types of programmes (themes, forms, music profile of the programme service),
- f) the planned percentage share of reruns of programmes in the annual transmission time of the programme service,
- g) the planned percentage share of works comprising lyrics and music performed in the Polish language in the monthly transmission time of works comprising lyrics and music in the programme service,
- h) the planned percentage share of programming blocks assembled by entities other than the broadcaster, including transmission and retransmission of programme services of other broadcasters, in the daily transmission time of the programme services,
- i) the planned percentage share of local or regional issues in the weekly transmission time.

13) applicants whose broadcasting licence is about to expire and who apply for a new broadcasting licence shall submit information on discharge of their obligations under the exercise of copyright and neighbouring rights.

§ 4.

1. Applications for a broadcasting licence may be filed only in connection with the announcement concerning availability of broadcasting licences, referred to in Article 34 paragraph 1 of the Act.
2. The provision of subparagraph 1 shall not apply to applications for a broadcasting licence to transmit a programme service by a cable system or satellite, when the disposing of the frequency assigned for transmission of a programme service is beyond the competence of the National Council.

§ 5.

1. The Chairman of the National Council shall publish an announcement concerning availability of broadcasting licences in daily newspapers in the areas where the programme service under the licensing procedure is to be transmitted.
2. The announcement referred to in subparagraph 1 shall specify in particular:
 - 1) the type of the activity covered by the broadcasting licence,
 - 2) the list of transmitters covered by the licensing procedure,
 - 3) the time-limit for filing applications.
3. (deleted).

§ 6.

1. The Chairman of the National Council shall initiate the licensing procedure not later than within 14 days from the date of expiry of the time-limit for filing applications for a broadcasting licence.
2. Applications filed after the time-limit referred to in § 5 subparagraph 2 point 3 shall not be examined. The Chairman of the National Council shall state, by a decision, a default on the time-limit for filing applications for a broadcasting licence.
3. Upon initiation of the licensing procedure, the Chairman of the National Council shall publish forthwith a list of applicants participating in the procedure by posting it in the Internet, on the website of the National Broadcasting Council and by displaying it the Office of the National Broadcasting Council.

§ 7.

The Chairman of the National Broadcasting Council shall pass the draft broadcasting licence to the Minister of Communications, requesting the Minister's opinion as regards the scope set forth in Article 37 paragraph 1 subparagraph 3 of the Act.

§ 8.

The Chairman of the National Council shall make information contained in applications for a broadcasting licence available to the parties to the procedure.

§ 9.

1. During the licensing procedure, the applicant shall be required to notify forthwith any changes in the state of facts or legal status covered by the application for a broadcasting licence to the Chairman of the National Council.
2. During the licensing procedure, no changes shall be made to the sections of the broadcasting licence specified by provisions of § 2 points 4-8, 10 and 11 as well as § 3 point 6, pertaining to the main guidelines, description of a method of calculation of revenues and costs of the business plan; profit & loss account; cash flow statement, method of payment of the licence fee, proceeds from advertising and sponsorship, investment plan as well as point 12 letters d), f), g), h), i).

§ 10.

In the case specified in Article 34 paragraph 2 of the Act, the application for a broadcasting licence shall be examined within not longer than 9 months from the date of initiation of the licensing procedure.

§ 11.

The National Council shall determine model applications for a broadcasting licence and enclosures thereto.

§ 12.

1. Not later than a year prior to the date of expiry of the broadcasting licence, the Chairman of the National Council shall announce availability of broadcasting licences within the scope covered by the expiring broadcasting licence.
2. The Chairman of the National Council shall notify the broadcaster whose broadcasting license is about to expire of the announcement referred to in §5 subparagraph 1.

§ 13.

1. The Chairman of the National Council shall announce the initiation of the procedure concerning revoking of a broadcasting licence to transmit a programme service.
2. In case a broadcasting licence is revoked by virtue of a legally binding decision, the Chairman of the National Council shall forthwith announce availability of a broadcasting licence within the scope covered by the revoked broadcasting licence.

§ 14.

1. The Chairman of the National Council shall keep a register of awarded broadcasting licences.
2. The Chairman of the National Council shall inform the Minister for Communications about awarding and revoking a broadcasting licence.

§ 15.

The Regulation shall come into force after the lapse of 14 days as from its promulgation.