

# Promulgation of the Radio and Television Broadcasting Act

Consolidated Act no. 338 of 11/04/2007 (In force)

## [Subsequent amendments to the regulation](#)

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# Promulgation of the Radio and Television Broadcasting Act

The Radio and Television Broadcasting Act, cf. Consolidated Act no. 410 of 2 May 2006, as amended by Act no. 1569 of 20 December 2006 is hereby promulgated.

## Chapter 1

### *Provision of programme services*

**1.** The following enterprises shall have the right to provide programme services as stated in Section 2:

- 1) DR, cf. Chapter 4.
- 2) The regional TV 2 stations, cf. Chapter 6.
- 3) TV 2/DANMARK A/S, on the condition that the company has a licence to provide public service programme activities pursuant to Chapter 6 a.
- 4) Enterprises having been licensed under Chapter 8 to provide programme services or which can, under Section 47, provide programme services without a licence.

(2) The Minister for Culture may in special cases authorise that enterprises other than those stated in subsection (1) may provide programme services in larger traffic installations on safety grounds. The Minister for Culture may lay down detailed rules for such programme services.

(3) Programme services shall be provided in accordance with the Act and any provisions laid down pursuant to the Act, as well as any terms on which the programme licence is granted.

**2.** Provision of programme services shall be taken to mean

- 1) broadcasting of sound and television programmes to the general public by means of radio equipment and
- 2) distribution through communal aerial installations of sound and television programmes which are not also broadcast as mentioned in item 1.

(2) Within the meaning of this Act, the term “communal aerial installation” shall mean communal aerial installations and other cable systems for the distribution of sound and television programmes to premises used for private residence.

## Chapter 2

### *Distribution of sound and television programmes*

#### *Distribution of sound and television programmes by means of terrestrial digital television broadcasting opportunities*

**3.** Distribution of Danish and foreign sound and television programmes by means of terrestrial digital television broadcasting networks may only take place with a licence from the Radio and Television Board

(2) Licences shall be granted by the Radio and Television Board following tendering.

(3) The Minister for Culture may lay down rules for tender procedures under subsection (2), including terms for licences, etc. The Minister for Culture may also specify that the Radio and Television Board may lay down terms for the company, etc. in connection with the issuing of distribution licences under rules laid down by the Minister for Culture.

(4) Licences may, however, be granted to DR, TV 2/DANMARK A/S or any company owned exclusively by one of these enterprises or the enterprises in association as determined by the Minister for Culture.

(5) The Minister for Culture may lay down rules on deviation from subsection (2) in connection with trial services.

**4.** Provision of services under Section 3 may be subject to the payment of a concession fee.

(2) The minimum amount, calculation basis and payment due dates of the concession fee shall be specified in the tender documents.

(3) The Radio and Television Board may revoke a licence granted under Section 3, if the licensee

- 1) infringes the Act or any provisions laid down pursuant to the Act, where such infringement is gross or frequently repeated, or
- 2) disregards the terms upon which the licence is granted.

#### *Distribution of sound and television programmes through communal aerial installations*

**5.** Danish and foreign sound and television programmes received directly by way of aerial systems or by cable transmission may only be distributed in communal aerial installations unchanged and simultaneously with the actual broadcasting or transmission.

(2) Subtitling and similar, and time-lagging of programmes are allowed, provided that the radio or television enterprise concerned has consented thereto.

**6.** Owners of communal aerial installations shall ensure that the sound and television programmes broadcast by means of radio equipment by DR, TV 2/DANMARK A/S and the regional TV 2 stations, cf. Sections 12, 31 and 38 a, including the regional programmes intended for reception in the area concerned, are distributed via the installations. This also applies to programmes on the fourth FM radio channel, cf. Section 11 (3).

(2) The provision in subsection (1) does not apply to DR's children's and history channel.

(3) Digital programmes broadcast by DR and TV 2/DANMARK shall only be distributed if other digital programmes are distributed in the installation.

(4) The Minister for Culture may lay down rules concerning the extent to which programmes on the fifth FM radio channel, cf. Section 11 (5), shall be distributed via communal aerial installations.

(5) Should the installation distribute programmes in programme packages,

1) all such packages shall contain the programmes covered by subsections (1), (3) and (4), and

2) an option shall be provided solely to purchase a package that either only contains the programmes stated in subsections (1), (3) and (4), or that only contains these programmes and other programmes for which the price is so low that the price of these supplementary programmes only constitutes a fraction of the total price of the package.

**7.** The Minister for Science, Technology and Development may lay down regulations on access in communal aerial installations to use decoders that convert encrypted signals into television signals that can be immediately reproduced by television sets. The regulations may contain rules for:

1) Programme providers' access to use a common decoder system that is used in the communal aerial installation.

2) Programme providers' access to use their own decoder.

3) Programme providers' access to arrange settlement directly with the users.

4) Fees to cover the expenditure related to the administration of Section 7, including the provisions issued pursuant thereto.

**8.** The National IT and Telecom Agency shall supervise compliance with Section 6 and any regulations issued pursuant to Section 7. The National IT and Telecom Agency may in conjunction with its supervision direct owners of communal aerial installations to comply with Section 6 and any regulations issued pursuant to Section 7. Decisions pertaining to Section 6 may not be brought before any other administrative authority.

(2) The Minister for Science, Technology and Development may not issue orders to the National IT and Telecom Agency concerning the exercising of its official authority in relation to concrete cases, concerning the consideration and determination of individual cases, concerning the Agency's issuing of administrative regulations in areas subject to the Agency's authority, or concerning the other supervisory activities of the Agency in order to ensure compliance with this Act and any administrative regulations issued pursuant thereto.

(3) The Minister for Science, Technology and Development may not grant exemptions from administrative regulations issued by the Minister pursuant to this Act.

**9.** Complaints against decisions by the National IT and Telecom Agency pursuant to Section 7 of this Act may be brought before the Telecommunications Consumer Board.

## Chapter 3

### *Public service activities*

**10.** The overall public service activities shall, via television, radio and the Internet or similar, provide the Danish population with a wide selection of programmes and services comprising news coverage, general information, education, art and entertainment. Quality, versatility and diversity must be aimed at in the range of programmes provided. In the planning of programmes freedom of information and of expression shall be a primary concern. Objectivity and impartiality must be sought in the information coverage. Programming shall ensure that the general public has access to important information on society and debate. Furthermore, particular emphasis shall be placed on Danish language and culture. Programming shall cover all genres in the production of art and culture and provide programmes that reflect the diversity of cultural interests in Danish society.

**11.** Public service programmes are provided by DR and the regional TV 2 stations pursuant to the rules in Chapters 4 and 6.

(2) TV 2/DANMARK A/S's programme services pursuant to the licence issued under the rules in Chapter 6 a are a part of the overall public service programme activities.

(3) Furthermore, the programme services on the fourth FM radio channel and the news coverage on the fifth FM radio channel, cf. subsections (4) and (5), form part of the general public service activities. Licences to provide such programme services shall be granted under the provisions of Chapter 8

(4) The fourth FM radio channel shall be a varied public service-oriented channel providing classical music, supplemented with the presentation of rhythmic music, jazz and Danish music, cultural programmes and programmes of social interest and debate, etc.

(5) Programming for the fifth FM radio channel shall include news programmes from the whole country. Programming may not be regionalised. A licence to provide such programmes may not be granted to DR.

(6) The public services of DR shall be financed through DR's share of licence fees and via income from other services, cf. Section 15 (2). The public services of the regional TV 2 stations shall be financed through the stations' share of licence fees and via income from other services, cf. Section 35.

(7) TV 2/DANMARK A/S's public service programme activities are financed by TV 2/DANMARK A/S.

(8) The public service activities of the fourth and the fifth FM radio channel are financed by the licensees.

**Section 11 a.** Under rules laid down by the Minister for Culture, the Danish Film Institute may provide grants for the production of Danish television drama and television documentary programmes for broadcast by television enterprises other than DR, the regional TV 2 stations and non-commercial local TV stations, cf. Section 92 a.

## Chapter 4

### *DR*

#### *DR's public service programmes*

**12.** DR shall provide public service programmes to the general public in accordance with the principles stated in Section 10.

(2) DR's fulfilment of its public service obligations shall be specified in a public service contract between the Minister for Culture and DR.

(3) DR shall prepare an annual statement on its fulfilment of the public service contract.

**13.** Sponsored programmes may be included in the public service programmes according to the rules in Chapter 11.

**Section 13 a.** Programmes produced on the basis of a licence issued under the rules of Chapter 8 may be included in DR's public service programmes, cf. Section 11 (3-5).

#### *Other activities of DR*

**14.** DR may provide other programme services under the rules of Chapter 8.

(2) DR may provide other services, including telecom services, in connection with its programme services, in order to utilise the institution's technical equipment, special expertise, etc.

(3) DR may establish new companies or contribute capital to existing companies in order to carry out other activities, including programme services, or in order to cooperate on media-related activities with other enterprises.

(4) DR's provision of other services, cf. subsections (1)-(3), shall take place on competitive terms. The Minister for Culture may lay down detailed rules for the separate treatment in the accounts of public service activities and other activities.

(5) The Minister for Culture may lay down detailed rules for DR's other activities.

#### *Organisation of DR, etc.*

**15.** DR is an independent public institution.

(2) DR's activities shall be financed through DR's share of licence fees and via income from the sale of programmes and other services, subsidies, dividend, share of profits, etc. DR shall not receive advertising revenue from programme services and public service activities on the Internet. Apart from activities in association with DR's ensembles and entrance charges in connection with major events, DR may not demand payment from users for public services.

(3) DR may raise loans on ordinary market terms to finance its investments, provided that such borrowing does not exceed 4 per cent of revenue according to the most recent accounts. Further loans shall be subject to the approval of the Minister for Culture.

(4) The Minister for Culture may draw up statutes for DR.

**16.** DR shall be managed by a Board of 11 members, appointed by the Minister for Culture. Three members (including the Chairman) shall be nominated by the Minister for Culture, six members shall be nominated by the Folketing (the Danish Parliament), and the permanent staff of DR shall nominate two members and two deputies. The Minister for Culture shall appoint the Vice Chairman from among the members nominated by the Folketing.

(2) The Board shall together represent expertise in media, cultural, management and business affairs.

(3) Members of or candidates for the Folketing, the regional council or the European Parliament are not eligible to be members of the Board.

(4) Members of or candidates for municipal councils are not eligible to be members of the Board.

(5) The term of office shall be four years.

(6) In the event of the resignation of a member of the Board a new member shall be appointed for the remaining term of office.

**17.** The Board shall have the supreme executive authority over DR. The Board shall have overall programme responsibility and responsibility for the observance of the provisions laid down by this Act, and any provisions pursuant to the Act, for the activities of the institution. The Board shall draw up the general guidelines for the activities of DR.

(2) The Board shall appoint the Director General and other members of DR's general management.

(3) The Board also appoints the listeners' and viewers' editor after discussion with the Director General. The editor shall report to the Board about his or her activities.

(4) Decisions made by DR in matters pertaining to the activities of the institution may not be brought before any other administrative authority, although cf. Section 20 (2).

(5) Decisions made by DR in matters concerning ethics of journalism and right of reply may be brought before the Press Council, however, as laid down in Chapters 5-7 of the Editorial Responsibility Act.

**18.** The Director General shall hold day-to-day responsibility for the programme services and shall be in charge of the day-to-day administrative and financial management of DR. Staff not appointed by the Board, cf. Section 17 (2) and (3), shall be appointed by the Director General.

**19.** The Board shall draw up the budget for DR's activities for each year. The budget shall be submitted for their information to the Minister for Culture and the Folketing.

(2) The accounts of the institution shall be prepared by the Board and the general management and be audited by the Auditor General. The accounts covering the individual year, with the auditor's remarks, shall be submitted to the Minister for Culture for approval, and thereafter submitted to the Folketing for information.

**20.** Funds may be made available from the Treasury to cover expenses in connection with some of the activities of DR. The terms and conditions shall in such case be agreed between the Minister for Culture, the Board and the minister whose area of responsibility is affected by the relevant elements of such activities.

(2) By agreement, as provided in subsection (1), the provisions of Section 17 (4) and Section 18 may be departed from.

**21.** Following negotiations with the Minister for Finance, the Minister for Culture may provide a government guarantee to ensure fulfilment of the pension commitments of the Pension Fund for Civil Servants Employed by DR. The equivalent shall apply to DR's obligations to provide employees who are not members of any pension scheme with an ongoing lifelong supplement to the social pension.

## Chapter 5

### *TV 2/DANMARK*

**22-30.** (Repealed)

## Chapter 6

### *The regional TV 2 stations*

#### *Public service activities of the regional TV 2 stations*

**31.** The regional TV 2 stations shall provide public service programmes to the general public in their areas in accordance with the principles stated in Section 10.

(2) The regional TV 2 stations shall produce news and current affairs programmes. Other programmes shall primarily be provided via purchases from other producers.

(3) The programming of the regional TV 2 stations shall emphasise regional affiliation.

(4) The regional TV 2 stations' fulfilment of their public service obligations shall be specified in public service contracts between the Minister for Culture and the individual stations.

(5) The individual regional TV 2 stations shall prepare annual statements on their fulfilment of the public service contracts.

**32.** Sponsored programmes may be included in the public service programmes according to the rules in Chapter 11.

#### *Other activities of the regional TV 2 stations*

**33.** The regional TV 2 stations may not provide other programme services.

(2) The regional TV 2 stations may provide other services, including telecom services, in connection with their programme services, in order to utilise free capacity with regard to technical equipment, staff, premises, etc.

(3) The regional TV 2 stations may have financial or managerial involvement in companies in order to cooperate with other enterprises that are independent of the regional TV 2 stations to conduct Internet-based information activities about each individual regional area. A regional TV 2 station may not achieve a controlling influence through its participation in such companies.

(4) The regional TV 2 stations' provision of other services shall take place on competitive terms. The Minister for Culture may lay down detailed rules for the separate treatment in the accounts of public service activities and other activities.

(5) The Minister for Culture may lay down detailed rules for the regional TV 2 stations' other activities.

#### *Organisation of the regional TV 2 stations, etc.*

**34.** The eight regional TV 2 stations shall each have a Board of Representatives, the composition of which reflects a wide variety of aspects of the regional culture and community.

(2) The Minister for Culture may in special cases approve the establishment of new regional TV 2 stations.

(3) The Minister for Culture may draw up statutes for the regional TV 2 stations.

**35.** The regional TV 2 stations' activities shall be financed through their shares of licence fees and via income from the sale of programmes and other services, subsidies, dividends, share of profits, etc.

**36.** A Board of five to seven members shall be in charge of the overall management of the individual regional TV 2 station. The permanent staff of the regional TV 2 station shall elect one

member and one deputy hereof, while the other members shall be elected by the Board of Representatives.

(2) Members of or candidates for the Folketing, the regional council, the European Parliament or municipal councils are not eligible to be members of the Board.

(3) The term of office shall be four years.

(4) In the event of the resignation of a member of the Board a new member shall be elected for the remaining term of office.

(5) The Board shall have the supreme executive authority over the regional station. The Board shall have overall programme responsibility and responsibility for the observance of the provisions laid down by this Act, and any provisions pursuant to the Act, for the station. The Board shall lay down the general guidelines for the regional station and shall appoint the General Manager of the regional station.

(6) The General Manager of the regional TV 2 station shall hold day-to-day responsibility for the programme services and shall be in charge of the day-to-day administrative and financial management of the regional station. The General Manager shall appoint the station's staff.

**37.** The Board of each regional TV 2 station shall draw up the budget for the station for each year. The budget shall be submitted for their information to the Minister for Culture and the Folketing.

(2) The accounts of the regional TV 2 station shall be prepared by the Board and the general management and audited by the Auditor General. As regards TV Syd, the accounts shall, however, be audited by a state-authorised public accountant. The accounts covering the individual year, with the auditor's remarks, shall be submitted to the Minister for Culture for approval, and thereafter submitted to the Folketing for information.

**38.** Decisions made by the regional TV 2 stations in matters pertaining to the activities of the institution may not be brought before any other administrative authority.

(2) Decisions made by the regional TV 2 stations in matters concerning ethics of journalism and right of reply may be brought before the Press Council as laid down in Chapters 5-7 of the Editorial Responsibility Act.

## Chapter 6 a

### *TV 2/DANMARK A/S's public service programme activities*

**38 a.** The Minister for Culture may grant a licence for TV 2/DANMARK A/S to perform public service programme activities. TV 2/DANMARK A/S's public service programme activities shall be provided to the entire population in accordance with the principles stated in Section 10.

(2) The Minister for Culture may, in connection with issuing the licence, define more detailed terms for the public service programme activities, etc. In this context it may be stipulated that a concession fee shall be paid for the licence. It may also be stipulated that a system of penalties shall be agreed, to be applied in the event that the terms on which the programme licence has been granted are disregarded.

**38 b.** The Minister for Culture may lay down rules on the programme services, including rules for the proportion of programmes of European origin to be included, and rules to ensure that consideration is shown for children and young people.

**38 c.** Advertisements, sponsored programmes and programmes of which the broadcasting time has been paid for may be included in the programme services according to the rules in Chapter 11.

**38 d.** At the recommendation of the Radio and Television Board, the Minister for Culture may decide to revoke the programme licence either temporarily or permanently if TV 2/DANMARK A/S

- 1) infringes the Act or any provisions laid down pursuant to the Act, where such infringement is gross or frequently repeated,
- 2) disregards Section 87 or any order issued pursuant thereto,
- 3) disregards the terms upon which the programme licence is granted, or
- 4) disregards instructions issued under Section 88.

**38 e.** The Minister for Culture may revoke the programme licence either temporarily or permanently if TV 2/DANMARK A/S does not utilise the licence or if there is a significant interruption to programme services.

**38 f.** In the event of a revocation pursuant to Sections 38 d or 38 e, the Minister for Culture may issue a licence to another enterprise, which would in that instance assume TV 2/DANMARK A/S's rights and obligations under the Radio and Television Broadcasting Act, and any provisions pursuant to the Act. 38 a (2) may be applied correspondingly.

**38 g.** The Minister for Culture may lay down detailed rules for the separate treatment in the accounts of public service activities and other activities.

## Chapter 7

### *The Radio and Television Board*

**39.** The Minister for Culture shall set up a board, the Radio and Television Board. The Board shall consist of eight members appointed by the Minister. The Minister nominates seven members, including the Chairman and Deputy Chairman, and the Cooperative Forum of Danish Listeners and Viewers Associations nominates one member. The members nominated by the Minister shall represent expertise in legal, financial/administrative, business and media/cultural affairs. Each term of office shall be four years.

(2) Having obtained an opinion from the Board, the Minister may lay down its rules of procedure. In the rules of procedure provisions may be laid down for the Board to set up subcommittees that shall finally decide cases on behalf of the Board.

(3) Radio and television enterprises, etc. covered by the activities of the Radio and Television Board shall be under an obligation to provide the Board with any information and documents, etc. and to submit any written statements that are requested by the Board. The Board may set a deadline for the provision of such information, etc.

**40.** The Radio and Television Board shall perform a number of tasks in relation to radio and television, cf. Sections 41- 44 a. Decisions made by the Board under these provisions may not be brought before any other administrative authority.

(2) Furthermore, the Radio and Television Board shall issue opinions on radio and television enterprises' statements on their fulfilment of their public service contracts.

(3) The Board shall also issue opinions on other matters, if this is specified in radio and television enterprises' public service contracts, licences, etc.

(4) The Radio and Television Board shall offer advice to the Minister for Culture on matters concerning radio and television.

(5) The Minister for Culture may delegate other tasks in relation to radio and television to the Radio and Television Board. The Minister for Culture may decide that the Board's decisions on such matters may not be brought before any other administrative authority.

**41.** The Radio and Television Board shall have the following tasks in relation to the distribution of sound and television programmes by means of terrestrial digital broadcasting opportunities:

- 1) To decide on licences for distribution of Danish and foreign sound and television programmes by means of terrestrial digital television broadcasting networks, to issue such licences and to supervise the activities, cf. Section 3.
- 2) To protest any infringement of the Act and any provisions pursuant to the Act, as well as terms laid down in connection with the issuing of distribution licences.
- 3) To decide on the revocation of distribution licences, cf. Section 4 (3).

**42.** The Radio and Television Board shall have the following tasks in relation to national and regional programme services on the basis of a special licence or registration:

- 1) To decide on licences for programme services by means of terrestrial analogue broadcasting opportunities, to grant such licences and to supervise the programme services, cf. Section 45.
- 2) To register enterprises providing programme services by means of satellite, by means of communal aerial installations or by means of terrestrial digital television broadcasting opportunities and short-wave broadcasting opportunities, and to supervise the programme services, cf. Section 47.
- 3) To protest any infringement of the Act and any provisions pursuant to the Act, as well as terms laid down in connection with the issuing of programme licences.
- 4) To decide on the revocation or lapse of licences to provide programme services, cf. Section 50 (1) and Section 51.
- 5) To decide on the cancellation of registered programme services, cf. Section 50 (2).

**43.** The Radio and Television Board may provide grants to non-commercial local radio and television stations, cf. Section 92 a.

**44.** The Radio and Television Board shall have the following tasks in relation to advertising and programme sponsorship:

- 1) The Board shall decide on the identification, scheduling and extent of advertisements, cf. Sections 72-75.
- 2) The Board shall decide on the content of radio and television advertisements, cf. Sections 76 and 77. In cases concerning compliance with the Pharmaceuticals Act and the Act on Advertising of Healthcare Services, the Board shall obtain a prior opinion from the Danish Medicines Agency and the National Board of Health respectively.
- 3) The Board shall decide on the right of reply to information of a factual nature broadcast in advertisements. The right of reply presupposes that the information could cause considerable financial or other damage and that its correctness is not indisputable. The Board may order the holder of a licence or registration for radio or television services to broadcast a reply. The Board may decide upon the content, form and scheduling of the reply.
- 4) The Board shall decide on the identification of sponsors and sponsored programmes, cf. Sections 79, 80, 81, 83 and 84.
- 5) The Board shall decide on issues relating to sales encouragement, etc. in sponsored programmes, cf. Sections 82 and 85.

**44 a.** The Radio and Television Board shall have the following tasks in relation to TV 2/DANMARK A/S's public service programme services in accordance with Chapter 6 a:

- 1) Supervise the public service programme activities,
- 2) protest any infringements of the Act and any provisions pursuant to the Act, as well as terms laid down in connection with the issuing of the licence and
- 3) submit opinions to the Minister for Culture on the revocation of licences issued pursuant to Section 38 a.

## Chapter 8

### *Permission for and registration of programme services*

**45.** The provision of programme services by a radio and television enterprise under Danish jurisdiction shall be subject to a licence from the Radio and Television Board. However, this shall not apply to programme services covered by Section 47 and to DR's, TV 2/DANMARK A/S's and the regional TV 2 stations' public service activities under Sections 12, 31 and 38 a.

(2) Licences for programme services by means of terrestrial broadcasting opportunities shall be granted by the Radio and Television Board following tendering.

(3) A licence to provide programme services pursuant to subsection (1) may be subject to the payment of a concession fee.

(4) The minimum amount, calculation basis and payment terms of the concession fee shall be specified in the tender documents.

(5) The Minister for Culture may define rules on tender procedures pursuant to subsection (2) and licences pursuant to subsection (1), including on the provision of programme services, the term of licences and the use of local television broadcast opportunities in the Greater Copenhagen area. The Minister for Culture may also specify that the Radio and Television Board may, in connection with the issuing of licences for programme services and according to rules defined by the Minister for Culture, define terms for the programme services, etc.

(6) The Minister for Culture may lay down rules on deviation from subsection (2) in connection with trial services.

**46.** The provision of programme services delivered by a television enterprise that does not fall under the authority of any EU member state and that depends on the use of a frequency or satellite capacity, for the use of which a licence has been issued in Denmark, or on a radio connection from Denmark to a satellite, requires registration pursuant to Section 47.

(2) Section 47 is not applicable for television enterprises that fall under the authority of an EFTA member state.

(3) With a view to fulfilling Denmark's international obligations, the Minister for Culture may lay down detailed rules to the effect that the provision of programme services delivered by a programme enterprise that has a general association with Denmark also requires registration under Section 47.

**47.** Enterprises under Danish jurisdiction that provide programme services by means of satellite, communal aerial systems, terrestrial digital television broadcasting opportunities and short-wave broadcasting opportunities must be registered with the Radio and Television Board.

(2) The Minister for Culture may lay down detailed rules for registration under subsection (1).

**48.** The Minister for Culture may lay down rules on the programme services, including rules for the proportion of programmes of European origin to be included, and rules to ensure that consideration is shown for children and young people.

**49.** Advertisements, sponsored programmes and programmes of which the broadcasting time has been paid for may be included in the programme services according to the rules in Chapter 11.

(2) Enterprises providing programme services according to this Chapter shall identify themselves at the end of each programme.

**50.** The Radio and Television Board may withdraw a licence granted under Section 45, either temporarily or permanently, if the licensee

- 1) infringes the Act or any provisions laid down pursuant to the Act, where such infringement is gross or frequently repeated, or
- 2) disregards Section 87 or any order issued pursuant thereto, or
- 3) disregards the terms upon which the programme licence is granted, or
- 4) disregards instructions issued under Section 88.

(2) The Radio and Television Board may make a decision concerning temporary or permanent discontinuation of programme services under Section 47 if the registered enterprise

- 1) infringes the Act or any provisions laid down pursuant to the Act, where such infringement is gross or frequently repeated, or
- 2) disregards Section 87 or any order issued pursuant thereto, or
- 3) disregards instructions issued under Section 88.

**51.** The Radio and Television Board may withdraw a programme licence temporarily or permanently if the licensee does not utilise the licence or in the event of a major interruption of the programme services.

## Chapter 9 (Repealed)

## Chapter 10

### *Licence fees*

**69.** A media licence fee must be paid for equipment that can receive and reproduce television programmes or services that are broadcast to the public.

(2) A radio licence fee must be paid for equipment that can receive and reproduce radio programmes that are broadcast to the public.

(3) The size of the media licence fee and the radio licence fee is defined for one or more years at a time by the Minister for Culture with the endorsement of the Folketing's Finance Committee.

(4) The Minister for Culture may lay down rules concerning payment of licence fees for companies, etc. (legal persons).

(5) Following negotiations with the Minister for Social Affairs, the Minister for Culture may lay down rules concerning reduction or lapse of the licence fee for groups of persons. Funds may be made available from the Treasury to cover the loss of revenue resulting from the introduction of such rules.

**69 a.** The media licence fees and the radio licence fees are collected by DR and then distributed, as determined by the Minister, to DR, the regional TV 2 stations and any other media-related purposes.

(2) The Minister for Culture may lay down detailed rules concerning the commencement and termination of the obligation to pay licence fees, on due payment dates and collection, and on reminder fees, etc. Interest shall accrue on licence fees paid after the due date and other outstanding amounts. The Minister may in this connection lay down rules concerning the minimum amounts for the collection and refund of licence fees respectively. Interest shall accrue from the due date. The amount of interest shall be calculated in accordance with the Interest Act. The Minister for Culture may lay down rules on extension of payment dates and waiver of arrears.

(3) The reminder fee stated in subsection (2) may not exceed DKK 200.

(4) In accordance with rules laid down by the Minister for Culture, DR may conclude agreements with public authorities to submit information, including electronically, deemed to be necessary for decisions concerning the reduction or lapse of fees, cf. Section 69.

(5) Section 17 (4) of the Act is applied correspondingly for DR's decisions concerning the collection of fees, etc.

**70.** In accordance with the rules that may be laid down by the Minister for Culture, it is the duty of the owner of equipment that can receive and reproduce TV or radio programmes to inform DR of the possession of such equipment. Business enterprises selling or hiring out equipment that can receive and reproduce TV or radio programmes to consumers are under an obligation, subject to the rules which may be laid down by the Minister, to inform DR of any sale or hire of equipment.

(2) The Minister for Culture may lay down rules concerning a control fee on infringement of subsection (1), clause 1. The size of this control fee shall correspond to the unpaid licence fee, but shall be no less than DKK 500.

**71.** Fees and charges as provided under Sections 69, 69 a and Section 70 (2) that remain unpaid may, together with interest and costs incurred, be collected by the arrears collection authority. The arrears collection authority may collect amounts owing by distraint and by attachment of the amount from the salary, etc. of the person concerned, according to the rules on collection of personal taxes laid down in the Deduction of Taxes at Source Act.

(2) The Minister for Culture may, in consultation with the Minister for Taxation, lay down detailed rules concerning the procedure to be followed in connection with the attachment of salaries.

(3) Upon request the Bailiff's Court shall decide cases of protest against the control fee, cf. Section 70 (2), made by the debtor to the arrears collection authority concerning the justification of the claim or the justification of an order for attachment of salary and of any actual deduction made. The request shall be submitted to the arrears collection authority, which shall bring the protest before the Bailiff's Court. The decision shall be made in accordance with the rules set out in Sections 499 to 503 of the Administration of Justice Act.

(4) Decisions pursuant to subsection (3) shall be made by the Bailiff's Court within the jurisdiction of the debtor's place of residence.

(5) The due date for a request for protest made pursuant to subsection (3) shall be four weeks from the debtor's receipt of notification of attachment of salary or deduction.

(6) Should the deadline set out in subsection (5) be exceeded, the Bailiff's Court shall reject the case. However, in exceptional cases the Bailiff's Court may allow a protest to be considered for up to one year after notification of attachment of salary or deduction. Such request shall be made to the Bailiff's Court within four weeks of notification of such permission. The decision of the Bailiff's Court concerning protests may be appealed to the High Court under the rules set out in Chapter 53 of the Administration of Justice Act.

**71 a.** The arrears collection authority may remit charges and fees covered by Section 71 under the rules of the Act on Collection of Taxes and Levies.

## Chapter 11

### *Advertising and programme sponsorship*

#### *Advertising*

**72.** Advertisements must be clearly identifiable as such, their content and presentation distinguishing them from regular programmes.

**73.** Advertisements on television shall be transmitted only in blocks to be inserted between the programmes. This does not apply to teletext advertisements.

(2) Advertisement blocks may, however, interrupt sports programmes where breaks occur, or programmes that are transmissions of performances or events where there are intervals for the audience. Scheduling of such advertisement blocks shall take into account the programme's natural breaks, duration and nature in such a way that the integrity and value of the programme shall not be compromised nor the owner's rights infringed.

**74.** Radio advertisements may be scheduled at any time during the programme service.

**75.** Advertisements may occupy maximum 15 per cent of the individual licensee's daily broadcasting time, and maximum 12 minutes per hour.

(2) Subsection (1) does not apply to teletext advertisements.

**76.** Advertisements for tobacco products and for articles mainly used in connection with the smoking of tobacco are not allowed, cf. the Act on Prohibition of Tobacco Advertisements, etc.

(2) Advertisements for pharmaceutical products and healthcare services are permitted subject to the provisions of the Pharmaceuticals Act and the Act on Advertisement of Healthcare Services.

(3) Advertisements for employers' organisations, trade unions, religious movements, political parties, political movements and elected members or candidates for political assemblies are not allowed on television.

(4) Advertisements for political messages are not allowed on television during the period from the date on which an election for a political assembly or a referendum is called until the election or the referendum has been held. If the date of the election or the referendum is announced more than three months before it is held, the advertisement-free period comes into force three months before the election or referendum is held.

**77.** The Minister for Culture may lay down detailed rules concerning the inclusion of advertisements in programme services, including rules for the identification, scheduling, content and extent of radio and television advertisements.

**78.** Complaints concerning advertisements and programme sponsorship, cf. Section 44, shall be lodged with the Radio and Television Board within four weeks of the broadcasting of the advertisement or programme concerned.

(2) The Radio and Television Board may decide to take up cases at its own initiative.

(3) The Minister for Culture may lay down rules on the lodging of complaints concerning other matters relating to advertisements and programme sponsorship.

### *Programme sponsorship*

**79.** Programme sponsorship shall mean any contribution, direct or indirect, to the financing of radio or television programmes, including teletext pages, from a natural or legal person not engaged in the broadcasting or production of radio or television programmes, films, phonograms, etc., with a view to promoting the name, trademark (logo), image, activities or products of that person

**80.** Sponsored programmes shall be clearly identifiable as such by appropriate credits appearing at the beginning or end, or both, of the programme, showing the sponsor's name, trademark (logo), product or service. Such credits may not appear in the programme itself. On teletext the sponsor's name, trademark (logo), product or service shall appear on the individual pages sponsored.

(2) Identification of sponsorship from enterprises the activities of which include production or sale of pharmaceuticals may not be in the form of promotion of specific pharmaceuticals that are prescription drugs under the Pharmaceuticals Act.

**81.** The content and scheduling of a sponsored programme shall not be influenced by the sponsor in such a way as to affect the responsibility and editorial integrity of the radio or television enterprise.

**82.** No sponsored programme may encourage the sale of the sponsor's or a third party's goods or services or promote the goods or services thereof.

**83.** Programmes may not be sponsored by enterprises whose principal activity is to produce or sell tobacco products or other goods primarily used in connection with smoking.

(2) No radio programmes forming part of the overall public services, cf. Section 11, and no television programmes may be sponsored by employers' organisations or trade unions or by political parties or religious movements.

**84.** No sponsored news and current affairs television programmes may be broadcast.

(2) News and current affairs radio programmes that do not form part of the overall public services, cf. Section 11, may be sponsored.

**85.** The Minister for Culture may lay down detailed rules for programme sponsorship and for how programmes for which broadcasting time has been paid may be included in the programme services.

## Chapter 12

### *Miscellaneous provisions*

**86.** Cases and documents concerning the programme service activities and appurtenant business affairs of DR and the regional TV 2 stations shall be exempt from the Access to Public Administration Files Act.

(2) Cases and documents concerning the programme service activities and appurtenant business affairs of DR and the regional TV 2 stations shall be exempt from Chapters 4 to 6 of the Public Administration Act.

**87.** DR, the regional TV 2 stations, holders of licences to provide programme services, and registered enterprises shall record and keep for three months tapes of all programmes broadcast, pursuant to rules that may be laid down by the Minister for Culture. The enterprise may be directed to hand over tape-recorded programmes in connection with consideration of a case concerning the

programme service, including the advertising that is broadcast. If warranted by consideration of the case, the enterprise may be directed to keep recorded programmes for more than three months.

**88.** Under rules laid down by the Minister for Culture, radio and television enterprises covered by this Act are subject to the obligation to broadcast notifications to the general public regarding emergency measures in a crisis situation.

**89.** (Repealed)

**90.** The Minister for Culture may lay down rules to the effect that television enterprises' exclusive rights to events of significant interest to society may not be utilised in such a way that a significant proportion of the population is unable to watch such events via direct or subsequent transmission on a free television channel.

(2) Television enterprises subject to Danish jurisdiction may not utilise exclusive rights to events that have been declared by another EU member state, or a state with which the Community has concluded an agreement, to be of significant interest to society in such a way that a considerable proportion of the population of that country is unable to watch the events on a free television channel. Utilisation of the exclusive rights shall take place in accordance with the rules of that country concerning transmission of all or part of the events and concerning simultaneous or subsequent transmission thereof.

(3) In order to secure for the public the right to be kept informed, the Minister for Culture may lay down rules for certain limitations regarding the exploitation by television enterprises of their exclusive rights to transmit broadcasts of major events so that, in certain, well-defined circumstances, other television enterprises may be able to present short news excerpts about the events.

**91.** It shall not be permitted to manufacture, import, sell, own or change decoders or other decoding equipment, the purpose of which is to give unauthorised persons access to the content of an encoded radio or television programme. Advertisements for or other promotion of such equipment are not permitted.

**92.** The use of radio frequencies in order to provide programme services shall be subject to a licence granted by the National IT and Telecom Agency pursuant to the Act on Radio Frequencies. Should a licence granted under clause 1 be withdrawn, lapse or be revoked, the Minister for Culture may decide that the programme licence under the Radio and Television Broadcasting Act shall lapse.

(2) When granting a programme licence, the Radio and Television Board and the local radio and television boards may set a deadline by which a licence pursuant to the Act on Radio Frequencies shall be obtained. This deadline may be postponed.

**92 a.** The Minister for Culture may lay down rules concerning the distribution of grants, terms for the use of grants, the submittal of applications, the submittal of accounts, auditing competence and the performance of the audit, etc. in connection with grants paid out under Sections 11 a and 43 of the Act.

(2) The Danish Film Institute and the Radio and Television Board may obtain additional material from the recipients of grants for use by the Auditor General for a more detailed review of the accounts.

(3) Commitments given are revoked and grants paid may be claimed back in instances where the recipient of the grant does not satisfy the conditions of the grant or does not undertake the activity envisaged.

(4) Grants may be paid in advance.

## Chapter 13

### *Penalties*

**93.** Anyone who

- 1) provides programme services in contravention of Section 1,
- 2) distributes sound or television programmes in contravention of Section 3,
- 3) infringes the provisions of Section 6,
- 4) disregards requests made by the Radio and Television Board pursuant to Section 39 (3),
- 5) disregards a decision pursuant to Section 44,
- 6) fails to register in accordance with Section 47 (1),
- 7) disregards a decision to discontinue programme services under Section 42, item 5 or section 50 (2),
- 8) repeatedly or grossly infringes the provisions of Section 70 (1), clause 1, or regulations issued thereunder,
- 9) infringes the provisions of Section 70, (1), clause 2,
- 10) infringes the provisions Section 87 or any order issued thereunder, or
- 11) infringes the provisions of Section 90 (2)  
shall be liable to a fine.

(2) Regulations issued in pursuance of Sections 7, 77, 85, 88 and 90 (1) may stipulate fines for the infringement of the provisions contained therein.

(3) Companies, etc., (legal entities) may be subject to criminal liability under the rules of Chapter 5 of the Penal Code.

**94.** Any person who deliberately or by gross negligence infringes Section 91 shall be liable to a fine. If there are particularly aggravating circumstances the penalty may be increased to imprisonment for up to two years. Particularly aggravating circumstances refer to instances where distribution, etc. takes place for commercial purposes, to a wider audience or in circumstances where there is a particular risk of serious infringements.

(2) Section 93 (3) shall apply correspondingly.

## Chapter 14

### *Commencement and transitional provisions, etc.*

**95.** The Act shall come into force on 1 January 2003.

(2) At the same time Act no. 1065 of 23 December 1992 on Radio and Television Broadcasting, as amended, shall lapse.

(3) The rules on the scheduling and extent of the broadcasting time stated in Section 54 (1), item 4, of the Act, which may be laid down by the Minister for Culture pursuant to Section 54 (4) of the Act shall apply to licences granted with effect from 1 January 2003 or a later date.

**96.** This Act shall not apply to the Faroe Islands and Greenland.

**97.** Rules issued under the Radio and Television Broadcasting Act in force so far, cf. Section 95 (2), shall remain in force until they are repealed or superseded by rules issued under this Act. Infringement of the rules is subject to a penalty according to the provisions applying hitherto.

**98.** Programme licences pursuant to Chapter 9 of the Act, which are issued after 1 January 2003, may, irrespective of the provisions of Section 60, not extend beyond 2 March 2004.

(2) The Minister for Culture may lay down detailed rules on deviation from subsection (1).

(3) Notwithstanding the provision in Section 60, the Minister for Culture may lay down rules concerning an extension of programme licences issued pursuant to Chapter 9 of the Act before 1 January 2003.

**99.** Licences issued for programme services that were confirmed before the date on which the Act came into force shall remain in force.

(2) The Minister for Culture may lay down rules concerning the application of terms in licences already issued at the time when the Act came into force.

Act no. 439 of 10 June 2003 on amendments to the Radio and Television Broadcasting Act (amendments as a consequence of the Act on TV 2/DANMARK A/S) contains the following provision:

## 2

The Minister for Culture defines the date on which the Act comes into force. In this context the Minister for Culture may state that the individual provisions of the Act come into force on different dates. With the entry into force of Section 1, item 6 of the Act, the independent institution TV 2/DANMARK is considered to be dissolved. <sup>1)</sup>

Act no. 1437 of 22 December 2004 on amendments to the Radio and Television Broadcasting Act contains the following provision:

## 2

The Act shall come into force on 1 January 2005.

Act no. 1439 of 22 December 2004 on the Legal Deposit of Published Material contains the following provision:

## 22

(1) The Act shall come into force on 1 July 2005.

(2) The Minister for Culture shall submit a proposal for a revised version of the Act not later than the parliamentary year 2007-08.

(3) Act no. 423 of 10 June 1997 on the Legal Deposit of Published Works is repealed.

Act no. 430 of 6 June 2005 on amendments to various acts and on the repeal of the Act on Local Partnerships regarding Collection contains the following provision:

**70**

(1) This Act comes into force on the day after publication in the Danish Legal Gazette.

(2) The Act takes effect as from 1 November 2005, although cf. subsection (3).

(3) Decisions on debt collection in respect of which an appeal has been lodged with the previous administrative appeals bodies before 1 October 2005 shall be transferred for processing at the National Tax Tribunal on 1 January 2006 if the previous appeals bodies have not finished processing the appeal before this date.

Act no. 431 of 06 June 2005 on amendments to various acts contains the following provision:

**85**

(1) The Act takes effect as from 1 November 2005, although cf. subsection (2).

(2) Section 52, item 8 applies for notices that a party with an obligation to deduct employees' tax gives the recipient of income taxed at source on 1 September 2005 or later. <sup>2)</sup>

Act no. 563 of 24 June 2005 on amendments to a number of acts in the area of culture contains the following provision:

**10**

(1) This Act comes into force on 1 January 2007. However, the provisions in subsections (2)-(6) come into force on the day the Act is published in the Danish Legal Gazette. <sup>3)</sup>

(5) Notwithstanding the provision in Section 64 (6) of the Radio and Television Broadcasting Act, boards in municipalities that are members of a coalition with one or more other municipalities and that have a term of office that expires no later than 30 April 2006 shall operate until the end of 2006. With effect from 1 January 2007 the municipal council or the municipal councils shall appoint a new board. <sup>4)</sup>

Act no. 1404 of 21 December 2005 on amendments to the Radio and Television Broadcasting Act and the Editorial Responsibility Act contains the following provision:

**3**

(1) The Act shall come into force on 1 January 2006.

(2) The Radio and Television Board may without a prior tender extend licences for local radio enterprises using terrestrial broadcast opportunities that expire in the period 1 January 2006 – 31 December 2007. Correspondingly, the Board may in special instances offer free broadcast

opportunities to other licensees in the area for which the broadcast opportunity is designated. Extensions and licences may not extend beyond 31 December 2007.

(3) The Minister for Culture shall lay down rules concerning the extensions and licences described in subsection (2), including deviations from the period described.

(4) In accordance with rules laid down by the Minister for Culture, the Radio and Television Board may extend licences for local television services that expire in the period from 1 January 2006 – 31 December 2006.

(5) Licences for programme services that have been awarded at the time when the Act comes into force shall remain in force for the rest of the period for which the licence is valid.

(6) Cases concerning local programme services that are pending at the time when the Act comes into force shall be transferred from the local radio and television boards to the Radio and Television Board on 1 January 2006.

(7) Cases concerning licences for or registration of local programme services that are pending at the time when the Act comes into force shall be processed to completion according to the rules of this Act or provisions laid down pursuant to the Act. Other cases pending shall be processed to completion according to the rules in force at the time.

(8) The Minister for Culture may lay down detailed rules concerning special exemptions from conditions in licences issued before the Act came into force.

Act no. 1569 of 20 December 2006 on amendments to the Radio and Television Broadcasting Act and the Private Housing Act (Implementation of media agreement 2007-2010, etc.) contains the following provisions:

### 3

(1) The Act shall come into force on 1 January 2007, although cf. subsections (2) and (3).

(2) Section 1, item 6 of the Act shall come into force on 1 January 2011.

(3) The Minister for Culture shall confirm the date on which Section 1, item 2 of the Act shall come into force.

### 4

The regional TV 2 stations may continue to provide other services that are established on the date on which the Act comes into force in accordance with Section 33 (2) and (3) of the Radio and Television Broadcasting Act that applied hitherto. Any such activity that according to Section 33 (2) and (3) falls under Section 1, items 11 and 12 of this Act may not be provided, must be discontinued by 1 January 2011.

*Ministry of Culture, 11 April 2007*

Brian Mikkelsen

/Lars M. Banke

#### Official notes

<sup>1)</sup> Pursuant to Executive Order no. 1030 parts of the Act came into force on 17 December 2003.

<sup>2)</sup> This provision is not relevant to the Radio and Television Broadcasting Act.

<sup>3)</sup> This provision means that Section 36 (2) of the Radio and Television Broadcasting Act is changed with effect from 1 January 2007.

<sup>4)</sup> As a consequence of the repeal of Chapter 9 of the Radio and Television Broadcasting Act, cf. Act no. 1404 of 21 December 2005, this provision has no practical significance.