

# **Act I of 1996**

## **on Radio and Television Broadcasting**

In the interest of free and independent radio and television broadcasting, the freedom of expressing opinions, the independence, balance and objectivity of providing information, the freedom of obtaining information, as well as of supporting the universal and national culture, and realizing the multicoloured nature of opinions and culture, as well as to prevent the development of monopolies in providing information, Parliament hereby creates the following Act in accordance with Section 61 of the Constitution:

### **CHAPTER I**

#### **GENERAL PROVISIONS**

#### **Scope of the Act**

##### *Section 1*

- (1) This Act shall apply to the broadcasting of radio and television programmes in Hungary and to the broadcast dissemination related thereto.
- (2) If an international treaty or convention so provides, this Act shall also apply to non-Hungarian broadcasters.

#### **Interpretative Provisions**

##### *Section 2*

For the purposes of this Act:

1. *Broadcasting time*: the total amount of the broadcasting time, and the duration of the other information transmitted in the course of the programme broadcast and not qualifying as a programme. Information not qualifying as a programme are the measuring signal, the monoscope, the broadcast signal, the interval signal, announcing the right time, any communication by the announcer not related to the programme, and a pause/ interruption in the broadcast due to technical problems.
2. *Basic service*: the broadcast transfer service rendered in the broadcast transfer system to the subscribers for the lowest fee.
3. *Controlling share*:
  - a) a direct and indirect share in an enterprise, the total of which provides control in excess of twenty-five percent of the pecuniary or voting rights; the direct and indirect ownership shares of close relatives defined in Section 685, paragraph b) of the Hungarian Civil Code shall be added up and so considered,
  - b) a situation which makes a controlling influence in the enterprise possible on the basis of a contract, the deed of foundation (charter) or preference shares, through the appointment (removal) of the decision-making or supervisory organizations, or in another way.
4. *Disguised advertising*: a programme or information provided within the programme which, under the guise of neutral information, encourages the purchase of goods or use of services, or solicits any other business conduct.
5. *Value added service*: the dissemination of programmes and services not related to broadcasting.

6. *Motion picture product*: feature film, television film, television play, television feature film series, documentary, popular scientific film and animation film.

7. *Prime time*: on radio the period from 6. 30 to 9. 30, while on television the period between 18. 30 and 21. 30.

8. *Linking into network*: the interconnection of two or more broadcasters for the simultaneous or nearly simultaneous broadcasting of the same programme or broadcast,

9. *Network broadcaster*: a broadcaster whose broadcast or programme is disseminated in network broadcasting, and is responsible for the broadcasting.

10. *Local broadcasting*: broadcasting, in whose area of reception a maximum of one hundred thousand inhabitants, or within a single city a maximum of five hundred thousand inhabitants live, on an annual average.

11. *Charity appeal*: a programme or part of a programme disseminated in a broadcast without any consideration in cash or other consideration of an economic nature which requests the provision of assistance in the interest of a natural person, a group of natural persons, or social organizations, foundations, etc. established to support the above.

12. *Screen text*: writing, still image or computer graphics disseminated before the beginning or after the end of the broadcasting time of television broadcasting, or between programmes.

13. *Supplementary broadcasting*: extra information transmitted simultaneously with radio or television broadcasting, with the aid of a complementary technical solution, through the same broadcast transfer or broadcast diffusion channel, which is closely related to broadcasting.

14. *Classical advertising*: all advertising which does not constitute a direct offer.

15. *Regional broadcasting*: broadcasting, whose area of reception exceeds the reception zone of local broadcasting but less than half of the country's population lives in its area of reception.

16. *Announcement of public interest*:

a) a programme disseminated at the request of and with the contents determined by an organization fulfilling state or local, territorial governmental responsibilities or a natural person, which serves to draw the attention of the population thereto,

b) a programme broadcast for the promotion of non-political objectives which calls for the support of a cause serving the interests of the public, popularizes an event or object of this nature, and draws attention to circumstances jeopardizing the realization of such an objective.

17. *Public broadcaster*: a broadcaster which, based upon its own broadcasting rules approved by the National Radio and Television Board, broadcasts public service programmes in the majority of its broadcasting.

18. *Public service broadcast*: a broadcast in which public service programmes play a decisive role, and which regularly informs the listeners and viewers living in the area of reception of the broadcaster of issues deserving the attention of the public.

19. *Public service programme*: a programme serving the informational, cultural, civic and lifestyle needs of the (national, regional, local) listeners and viewers living in the area of reception of the broadcaster, in particular:

a) artistic work or communication presenting universal and Hungarian culture and the culture of the national and ethnic minorities living in Hungary, the life of the national and ethnic minorities living in Hungary, and the viewpoints of minorities,

b) dissemination of information serving educational and training purposes,

c) providing information on scientific activities and results,

d) broadcasts serving the realization of the freedom of religion, and presenting church and religious activities,

e) children's and youth broadcasts,

f) dissemination of information making every-day life easier, serving to provide legal and public life information for the citizens, and promoting healthy lifestyles, the protection of the environment, the protection of nature, public security and the safety of traffic,

g) programmes created for groups at a serious disadvantage due to their age, physical, mental or psychological state or social circumstances,

h) dissemination of news.

20. *Public service broadcaster*: a broadcaster, the operation of which is defined in the rules of public service broadcasting, the broadcasting of public service programmes constitutes the majority of its responsibilities, its maintenance is financed primarily from public funds, it is under social supervision, and its basic rights and obligations are established by this Act.

21. *Indirect ownership share*: the ownership or voting right due to the owners of another enterprise (hereinafter "interposing enterprise") holding an ownership share or voting rights in the enterprise. If the ownership ratio and the voting ratio are different, the higher ratio shall be taken into account. For the establishment of the ratio of the indirect ownership share, the ownership or voting ratio in the interposing enterprise shall be multiplied by the ownership or voting ratio held by the interposing enterprise in the original enterprise. If the enterprise has a majority share in the interposing enterprise, it shall be taken into account as a whole. In the case of natural persons, the ownership or voting ratios held or exercised by close relatives [Section 685, paragraph b) of the Hungarian Civil Code] shall be added up and thus considered.

22. *Direct offer*: advertising which calls for the purchase, sale or lease of products or the use of services through establishing direct contact with the commercial distributor or service provider.

23. *Broadcasting to other countries*: non-satellite broadcasting, the majority of whose targeted area of reception, based upon the characteristics of the broadcasting facilities used for dissemination, falls predominantly outside the borders of the Republic of Hungary, or satellite broadcasting from Hungary, with an area of reception falling outside Hungary.

24. *Broadcasting in Hungary*: broadcasting,

a) the broadcaster of which is a natural person with residence in Hungary, a legal entity or unincorporated economic association seated in Hungary, or

b) the broadcasting equipment and network used for its dissemination are installed in the territory of the Republic of Hungary.

Broadcasting transmitted from outside the territory of the Republic of Hungary without any alteration, simultaneously, shall not qualify as broadcasting in Hungary.

25. *Broadcast*: a series of radio or television programmes edited and disseminated to the public.

26. *Broadcast transfer*: the simultaneous transmission of the signals produced by the broadcaster without any alteration, via a wire (cable) network, or via a non-diffusion radio telecommunication system, from the premises of the broadcaster, or from the end point of the broadcast distribution network, by inserting a separate organization to the receiving apparatus of users who are legally authorized thereto, with the exception of the transmission of signals, with the aid of a network suitable for the connection of less than ten reception apparatuses. A cable system within the boundaries of a plot of land is not considered to be broadcast transfer (e. g. condominium building).

27. *Broadcasting time*: the total time of the programmes transmitted, during a set period, in the broadcast.

28. *Programme*: sound or image, or the combination thereof forming a closed unit or edited into a closed unit from individual parts, which is marked out by a main title individually designating the whole of the combination, - and if necessary -, by further distinctive signs, and by a communication indicating that it is coming to an end.

29. *Broadcast distribution*: the simultaneous transmission, without any alteration to the contents, of the signals produced by the broadcaster via a wire (cable) network or via a surface or satellite non-diffusion system to radio and television broadcast diffusing stations or broadcast transfer networks.

30. *Broadcasting*: regular provision of radio broadcasts or television broadcasts bearing permanent titles/names, during the broadcasting time published in advance, through the channel(s) of any broadcast dissemination, system, as identified and made public, for anybody who operates a suitable receiving apparatus.

31. *Broadcaster*: an enterprise authorized to broadcast on the basis of this Act which edits a series of programmes or makes a decision as to which programmes are to be incorporated in the broadcast.

32. *Broadcast diffusion*: a one-way radio telecommunication process effected with an surface or satellite system, intended for a theoretically unlimited number of users with suitable receiving apparatuses, for the transmission of sounds, images or signals of another nature.

33. *Broadcast dissemination*: electronic forwarding of the broadcasting signals generated by the broadcaster to the user's receiving apparatus simultaneously, without any alteration (through broadcast diffusion or broadcast distribution).

34. *Non-profit oriented broadcaster*: a broadcaster who/which agrees to serve national, ethnic or other minority goals, cultural aims or a disadvantaged group, or intends to serve as the public life forum of a community, provided it uses the financial profit generated by the broadcasting, as recorded separately, solely for the maintenance and development of the broadcasting.

35. *National organization of interest representation and professional organization*: organizations of interest representation and professional organizations coming under the force of Act II of 1989 on the Freedom of Association, based on whose charters their nation-wide operation can be established.

36. *National broadcasting*: broadcasting, in whose area of reception at least fifty percent of the country's population lives.

37. *Nationally distributed newspaper*: a daily newspaper, whose daily number of copies sold reaches one thousand copies in at least each of ten counties, or reaches forty thousand copies in Budapest, and a weekly, whose weekly number of copies sold reaches five hundred copies in each of at least ten counties, or reaches thirty thousand copies in Budapest.

38. *Combined programme*: a combination of several programmes bearing a single main title.

39. *Political advertisement*: a programme which

a) calls upon, influences (the audience), to support the participation and success of a party or political movement, or its candidate, in the elections, or initiating a referendum,

b) popularizes the name, activity, objectives, slogan, emblem and the image formed of a party or political movement.

40. *Advertising that cannot be perceived consciously (subliminal advertising)*: advertising, in the transmission of which a stimulus generated by a sound effect or light effect of lower strength than the stimulus threshold necessary for conscious perception in the psychological sense has an effect on the viewer or listener of the programme, this being a consequence of the brief duration of the transmission, or for another reason.

41. *Advertising*: a programme transmitted as public information for a consideration or service rendered in exchange, or broadcasting time made available, which promotes the sale of named or depicted goods (products, services, real property, rights and obligations), or the use thereof for a consideration in other way(s), or the production of another effect, as intended by the advertiser.

42. *Self-made programme*: a programme, the majority of which has been made by

a) a natural person in a work-related contractual relationship with the broadcaster, or

b) by a natural person residing in Hungary, or a legal entity or unincorporated economic association seated in Hungary, with the expenses being borne by the broadcaster, where the pecuniary rights, as defined by law, attached to the programme so created are due to the broadcaster.

43. *Specialized broadcasting*: broadcasting where at least to the extent of eighty percent of the daily broadcasting time is made up of the same type of programmes as undertaken by the broadcaster in a bid or announcement.

44. *Sponsorial contribution*: a contribution in cash or of another economic nature provided for the broadcaster for the production and public transmission of a programme not qualifying as advertising in the interest of popularizing the name, trade mark, distinctive symbol or the image of the sponsor or a third party determined by it.

45. *Enterprise*: regardless of nationality, the activities and position as owners of legal entities, unincorporated economic associations and private individuals as defined by this Act.

46. *Cable broadcast transferor*: a broadcast transferor who/which effects broadcast transfer through a closed circuit telecommunications network.

47. *Area of reception*:

a) in the case of broadcasting performed through the broadcast diffusion system, the geographically identifiable territory, in which the level of the wanted signals of the broadcast diffusion service realizing broadcasting and the calculated level of interference protection reach the minimum values stipulated in the recommendations of the International Telecommunications Union in force,

b) in the case of broadcasting carried out through a wired broadcast transfer system (cable network), the inhabited territory in which the cable network was developed and the population of the territory has the possibility to establish connection to the main cable of the network against the fee which is usual in the given inhabited territory,

c) in the case of broadcasting carried out through a radio telecommunications broadcasting transfer system, the geographically identifiable territory in which the level of the wanted signals of the broadcast transfer service realizing broadcasting and the level of interference protection reach the minimum values declared to be necessary for reception of acceptable quality, in accordance with the broadcast transmission contract,

d) in the case of network broadcast dissemination systems, all of the areas of reception of the individual systems.

48. *Music programme*: a programme edited from musical works under copyright protection.

## **CHAPTER II**

### **PRINCIPLES AND RULES OF BROADCASTING**

#### **PART A)**

#### **General Basic Principles and Rules**

##### ***Title 1***

#### **Basic Principles**

##### ***Section 3***

(1) In the Republic of Hungary broadcasting may, within the framework of this Act, be freely exercised, information and opinions may be freely transmitted through broadcasting, and Hungarian and foreign broadcasts intended for public reception may be freely received. The broadcaster shall, within the framework of this Act, define the content of broadcasting independently, and shall be responsible for the same.

(2) The broadcaster shall respect the constitutional order of the Republic of Hungary, its activity may not violate human rights and may not be suitable for inciting hatred against individuals, sexes, peoples, nations, national, ethnic, linguistic and other minorities, and church or religious groups.

(3) Broadcasting may not aim, openly or concealingly, at insulting or excluding against any minority or majority, or at presenting these and discriminating against them on the basis of racial considerations.

##### ***Section 4***

(1) The information provided on domestic and foreign events expected to draw considerable public attention and disputed issues shall be many-sided, factual, up-to-date, objective and balanced.

(2) The totality of the programmes put on the air in the framework of broadcasting, or any group thereof by content or genre, may not serve the interests of any party or political movement and may not solicit the views thereof.

(3) The staff participating on a regular basis in the political information and news providing programmes of the broadcaster as host, news announcer or correspondent may, regardless of their work-related contractual relationship, not add any opinions or evaluating explanations, other than news commentary, to the political news.

(4) Any opinion or evaluating explanation attached to the news shall be published in the broadcast by identifying the capacity and naming the author thereof, distinguishably from the news.

##### ***Section 5***

(1) Prior to broadcasting image or sound effects violating religious convictions or beliefs and capable of disturbing public order in a violent or other manner, the attention of the public shall be drawn to that circumstance.

(2) Programmes intended for the purpose of religious or ideological education or suitable for that purpose may be broadcast by indicating such a nature thereof in advance.

(3) No images or sounds presenting violent conduct as an example to follow may be broadcast in programmes intended for minors.

(4) Programmes which may have an adverse effect upon the development of the personality of minors, in particular, programmes presenting the gratuitous use of violence as an example of conduct to follow and programmes presenting sex for its own sake, may only be broadcast between 23. 00 and 5. 00 hours. Prior to broadcasting, the attention of the audience shall be drawn thereto.

(5) It is forbidden to broadcast any programmes which may have a seriously adverse effect upon the development of the personality of minors.

## ***Title 2***

### **Broadcast Structural Requirements**

#### ***Section 6***

At least fifteen percent of the annual broadcasting time of the radio produced from musical programmes shall be produced from Hungarian-made musical programmes. This provision need not apply to broadcasters who do not put on the air musical programmes.

#### ***Section 7***

(1) In at least ten percent, and as of January 1, 1999, in at least fifteen percent, of the total annual broadcasting time, the national and regional television shall transmit broadcasts, and shall use at least seven percent, and as of January 1, 1999, at least twelve percent, of its annual expenditures as defined in Section 15, subsection (7) of Act XVIII of 1991 on Accounting, for the costs of broadcasts, which it ordered from or obtained from external entrepreneurs as broadcasts made not more than five years before.

The television may not have indirect or direct ownership shares in this enterprise, and the head or an executive employee of the television, and their close relatives, as defined in Section 685, paragraph *b*) of the Hungarian Civil Code, may not have a work-related contractual relationship or any ownership interests therein. The programmes so defined, other than motion picture products, shall be Hungarian-made.

(2) The broadcast aired in the course of connection to the network may only be taken into consideration for the purpose of meeting the requirements defined in subsection (1) in respect of the network broadcaster.

(3) At least fifteen percent, and as of January 1, 1999, at least twenty percent of the annual broadcasting time, of the national and regional television broadcasting, not counting motion picture products, advertising, news, sports broadcasting, quiz shows and contests and plays, shall be edited from Hungarian-made programmes.

#### ***Section 8***

(1) National and regional broadcasters, other than specialized broadcasters, shall broadcast public service programmes during at least ten percent of their daily broadcasting time.

(2) Public service programmes shall be broadcast during the prime time, for at least twenty-five minutes. If the broadcaster does not transmit during the prime time, it shall broadcast public service programmes between 7. 00 and 18. 30 hours, for at least twenty-five minutes.

(3) The national television shall broadcast at least twenty minutes, while the national radio shall broadcast at least fifteen

minutes, of independent, uninterrupted news broadcasts during the prime time. News material taken over from other Hungarian broadcasters may not exceed twenty percent of the news broadcast.

(4) A national television operating through surface broadcast diffusion may not operate as a specialized broadcaster.

### ***Title 3***

#### **Broadcasting Public Events**

##### *Section 9*

(1) If a broadcaster puts on the air an event to the audience which is otherwise public with exclusive right, the broadcast or news broadcast of another broadcaster may cover a part of the event, simultaneously with or following the transmission in accordance with its needs to an extent that it should not exceed the duration of the free use in the radio and television of works under copyright as defined in the Act on Copyright.

(2) The broadcasting of a part of an event satisfies the needs of the broadcast or news broadcast if it does not exceed ten percent of the duration of the transmission (programme) concerned, or fifty seconds, at the most.

### ***Title 4***

#### **Restrictions and Prohibitions on Advertising**

##### *Section 10*

(1) In accordance with this Act, the broadcaster shall not be responsible for the factual statements of an advertisement, other than deliberate misrepresentation.

(2) Beliefs of conscience and ideological convictions may not be disseminated through advertising in broadcasting.

(3) No advertising may be broadcast directly before and directly after the broadcasting of programmes prepared in respect of the events of national holidays, religious and church services/ceremonies.

(4) The internal and external staff regularly appearing in news broadcasts and programmes communicating current political information may not appear in advertisements and political advertising, either in image, or in sound.

(5) Disguised or consciously imperceptible (subliminal) advertising may not be broadcast.

##### *Section 11*

(1) During an election campaign, political advertising may be broadcast in accordance with the rules of the Acts on the election of Members of Parliament, the representatives of local and regional governments and mayors, the election of minority local governments. Outside election campaigns, political advertising may be broadcast exclusively in connection with referenda already ordered to take place.

(2) It is forbidden to broadcast political advertising in broadcasting abroad.

##### *Section 12*

(1) A client for the broadcasting of an advertisement, an announcement of public interest, charity announcement and political advertising, as well as the parties who have an interest in the broadcasting thereof, may not influence the contents of the broadcast and the placement of the programme in the broadcast schedule, other than the time, in a manner that would affect the responsibility or freedom of the broadcaster.

(2) The broadcaster shall bear no responsibility for the contents of announcements of public interest, charity appeals and political advertising under this Act.

### *Section 13*

(1) Advertisements popularizing and describing tobacco goods, weapons, ammunition, explosives, medicines available only on a doctor's prescription and therapeutic processes cannot be broadcast.

(2) Programmes containing the advertising of alcoholic drinks

*a)* cannot be addressed to minors and cannot show minors consuming alcohol,

*b)* cannot encourage the over-consumption of alcohol, and cannot show the over-consumption of alcohol in a positive light and cannot show abstaining from the consumption of alcohol in a negative light,

*c)* cannot give the impression that in the case of the consumption of low alcohol-content drinks the over-consumption of alcohol can be avoided,

*d)* cannot claim that the consumption of beverages containing alcohol may have any beneficial effects on health,

*e)* cannot be broadcast during the prime time, with the exception of the low alcohol-content drinks,

*f)* cannot be broadcast directly before and directly after programmes made for minors.

### *Section 14*

(1) The advertisement cannot directly suggest to minors that they encourage their parents or other adults to buy or use toys and other goods or services.

(2) The advertisement cannot be misleading in respect of the actual nature and possibilities of the toy.

(3) The advertisement cannot present children in violent situations, and cannot incite violence.

(4) Advertisements addressed to minors may not rely upon their trust in parents or teachers.

### *Section 15*

(1) Advertising, announcements of public interest, charity appeals and political advertising shall be broadcast

*a)* describing it as such directly before and after putting it on the air, and

*b)* separated in an optical or acoustic manner from other programmes, in a clearly recognizable way.

(2) When broadcasting announcements of public interest and charity appeals, the source thereof shall be named clearly. The broadcaster may not charge any consideration for the broadcasting of the announcements of public interest, as defined in Section 2, paragraph 16, sub-paragraph *a)*.

(3) The duration of announcements of public interest may not exceed two minutes. The restriction does not apply to the announcements of public interest, as defined in Section 137.

### *Section 16*

(1) Classical advertising may constitute a maximum of fifteen percent of the daily broadcasting time. The advertising time may reach twenty percent if it includes direct offers.

(2) In any one hour of the broadcasting time, calculated in any way, the amount of classical advertising may not exceed twelve minutes.

(3) The total time of direct offers may not exceed one hour a day.

(4) The restrictions defined in subsections (1) and (3) shall not apply to direct offers during the period extending from midnight to five o'clock in the morning.

(5) Non-profit broadcasters may transmit three minutes of advertising an hour.

(6) The provisions contained in subsections (1)-(3) cannot be applied to broadcasting specializing solely in (facilitating) the ordering of goods or services.

(7) The provisions contained in subsections (1)-(3) cannot be applied to screen texts if their reception area does not extend beyond the reception area of local broadcasting.

(8) National and regional televisions, with the exception of broadcasters specializing in programmes other than films, shall appropriate six percent of their advertising revenues for the creation of new Hungarian motion pictures. At least half of this shall be feature films, documentaries, popular scientific films and animation films, and thirty percent shall be works not made by themselves. This obligation may also be met by an amount paid to public foundations or state funds subsidizing the making of films, without any restrictions other than the right of showing. From the respect of this obligation double the amount paid shall be taken into account.

#### *Section 17*

(1) Advertisements may be broadcast between programmes.

(2) In accordance with the conditions defined in subsections (3)-(6) advertisements may also be broadcast during a programme in such a way that they should not interfere with the value of the programme, and should not violate the rights and lawful interests of the copyright beneficiary of the programme.

(3) In programmes composed of separate parts, and in sports and other broadcasts in which there are intermissions, advertisements may be broadcast between the parts and in the intermissions.

(4) The following programmes may not be interrupted or shortened by advertising:

a) news and topical political programmes whose duration is not in excess of thirty minutes,

b) those targeting minors under the age of fourteen years when their duration is not in excess of thirty minutes,

c) those reporting on the events of national holidays, or

d) with religious or church contents.

(5) Within a programme, there shall be at least twenty minutes between the advertisements broadcast, or between advertising compilations.

(6) Motion pictures of more than forty-five minutes may, depending upon the permission of the beneficiary of the copyright, be interrupted by advertising once every forty-five minutes. If the feature film or television film lasts twenty minutes beyond the two or more forty-five-minute periods, it may be interrupted by advertising on one further occasion. There shall be at least twenty minutes of broadcasting time between the advertisements interrupting the broadcast.

### ***Title 5***

#### **Sponsored Programmes**

##### *Section 18*

(1) The sponsor of the programme shall be named directly before or directly after broadcasting.

(2) A sponsored programme may not invite or induce the audience to use or abstain from using the business activity of the sponsor, or that of a third party identified by the sponsor.

(3) The sponsor may not influence the contents of the broadcast or the sponsored programme or the placement thereof in the broadcast, other than its point of time, in a manner which would affect the responsibility or freedom of the broadcaster.

(4) Programmes in which the trade mark, distinctive logo or slogan of the sponsor of the programmes appear, other than programme previews, cannot be broadcast.

(5) Political news programmes cannot be sponsored.

(6) This Section, with the exception of subsection (5), is not applicable to broadcasting specializing solely in facilitating the ordering of goods or services.

*Section 19*

(1) The following may not sponsor programmes:

a) parties and political movements,

b) enterprises which, based on their main activities, manufacture, sell wholesale, or provide services in connection with, products which cannot be advertised in accordance with this Act.

This prohibition does not apply to sponsorship

requiring the communication of the name and trade mark of an enterprise involved in respect of pharmaceutical products and therapeutic processes.

(2) The name, slogan or emblem of a party may not appear when naming the sponsor (name indicated).

***Title 6***

**Supplementary Broadcasting and Value Added Services**

*Section 20*

(1) No licence may be granted solely for the performance of supplementary broadcasting.

(2) Only a party authorized to broadcast may perform supplementary broadcasting.

(3) The application for the performance of supplementary broadcasting shall be incorporated in the application for broadcasting or shall be submitted subsequently.

*Section 21*

(1) Primarily broadcasters are entitled to provide value added services.

(2) If, within one hundred and eighty days of the commencement of the exercise of the right of broadcasting, the broadcaster does not commence the use of an optional value added service, other than a satellite system, the broadcast disseminator may submit an application in respect thereof.

(3) The application defined in subsection (2) may be enforced within one hundred and eighty days of the opening of the possibility by a report submitted to the National Radio and Television Board (hereinafter "Board") and to the broadcaster. Following this deadline, of the broadcaster and the broadcast disseminator that one may obtain entitlement to the value added service who/which submits his/its application first to the Board. If neither the broadcaster, nor the broadcast disseminator wishes to provide value added services, a third party may conclude a contract in respect thereof with the broadcaster and the disseminator.

(4) The value added service shall be commenced within sixty days of reporting, and shall be carried on on a continuous basis, in accordance with the contents of the report.

(5) The right of providing value added services shall cease together with the right of broadcasting.

***PART B)***

**Basic Principles and Rules of Public Service Broadcasting and of Public Broadcasting**

***Title 1***

**General Rules**

*Section 22*

- (1) Public service broadcasting may be performed by the broadcaster defined in this Act.
- (2) On application, the Board may declare a broadcaster to be a public broadcaster if it undertakes the obligations applicable to public broadcasters.
- (3) The Board shall declare a broadcaster to be a public broadcaster by approving the latter's rules of broadcasting. The Board shall publish the rules of broadcasting in the Education Gazette (Művelődési Közlöny).
- (4) Public service broadcasters and public broadcasters shall be exempt from the obligation to pay broadcasting fee.

## ***Title 2***

### **Common Rules Applicable to the Broadcasts of Public Service Broadcasters and Public Broadcasters**

#### ***Section 23***

- (1) The public service broadcasters, and the public broadcaster, in particular, are obliged to respect the dignity and basic interests of the nation, the national, ethnic, linguistic and other minorities, and may not offend the dignity of other nations.
- (2) Public service broadcasters and public broadcasters shall provide information upon domestic and foreign events which may be counter on to attract the interest of the public, events significantly affecting the lives of those living in the reception area, connections, disputed matters, the typical opinions formed of the events, including different opinions, on a regular basis, in a comprehensive, impartial, authentic and precise manner. In the course of the fulfillment of these responsibilities, they shall provide for the publication of the announcements/newsflashes of public interest, not defined in Section 137.
- (3) Public service broadcasters and public broadcasters shall provide for the presentation of the multicoloured nature of programmes and views, and the viewpoints of minorities, and shall, through the diversity of programmes, take care of satisfying the needs of a wide range of viewers, and as many groups as possible, to a high standard.
- (4) Public service broadcasters and public broadcasters shall pay special attention to the following:
  - a) fostering the values of the universal and national cultural heritage, enforcing the multicoloured nature of culture,
  - b) showing programmes serving the physical, psychological and moral development and interest of minors, and enriching their knowledge,
  - c) presenting the values of religious and church, national, ethnic and other minority cultures,
  - d) making important information available for the groups in a seriously disadvantaged/underprivileged position owing to their age, physical, mental and psychological state or social circumstances,
  - e) showing programmes presenting the social, economic and cultural life of the various parts of the country.

#### ***Section 24***

- (1) In the case of public service broadcasters and public broadcasters, the duration of advertising may not exceed six minutes in any single hour, calculated in any way. The duration of advertising may not exceed five minutes per hour calculated in the average of the daily broadcasting time.

(2) The displaying of screen texts containing advertising, other than the screen texts outside the broadcasting hours, shall also be included in the duration of the advertisement.

(3) In public service broadcasting and in public broadcasting advertising may only be broadcast between programmes, and in combined programmes, between the individual programmes. In sports and other broadcasts in which there are natural breaks, advertising may be broadcast between the parts and in the breaks.

(4) Public service broadcasters and public broadcasters may not advertise alcoholic beverages in their broadcasts. The programmes of public service broadcasters and public broadcasters may not be sponsored by those being the manufacturers and distributors as a main activity of alcoholic beverages.

(5) The internal and external staff appearing on a regular basis in public service broadcasting and public broadcasting, regardless of their work-related contractual relationship, may not in image or sound appear in advertising or political advertising at a broadcaster.

(6) It is forbidden to broadcast programmes presenting gratuitous violence as an example of conduct to be followed, or presenting sex for its own sake.

#### *Section 25*

Only the following programmes may be sponsored in public service broadcasting and public broadcasting:

a) programmes with religious and church contents,

b) programmes presenting or broadcasting artistic and cultural events,

c) programmes presented in the mother tongues of national and ethnic minorities, and presenting the life and culture of national and ethnic minorities,

d) programmes made for groups in a seriously disadvantaged position owing to their age, physical, moral and psychological state or social circumstances.

### ***Title 3***

#### **Special Rules Applicable to Public Service Broadcasting**

##### *Section 26*

(1) It is the obligation of public service broadcasters to foster the culture and mother tongue of the national and ethnic minorities living in Hungary, and to provide information in their mother tongues on a regular basis. This responsibility shall be fulfilled in nation-wide broadcasting or, with regard to the geographical location of the minority, in regional or local broadcasting, by broadcasting programmes satisfying the needs of the minority, by providing subtitles in the television as required, or by multi-lingual broadcasting. The duration of the national minority programmes may not be less than at the date of the coming into force of the Act, either on a national, or regional aggregate per national minority.

(2) The national local governments of national and ethnic minorities, in the absence thereof, the national organizations of the above, shall decide independently upon the principles of the utilization of the broadcasting time made available for them by the public service broadcaster. The public service broadcaster is obliged to take their above decision into consideration which may not affect the contents of the programme and the editing of broadcasts.

##### *Section 27*

(1) Public service broadcasters shall provide for the permanent preservation of the cultural values and documents of historic importance transferred to their possession in the course of their activity in their archives, and shall collect, store and look after the above in a professional manner.

(2) The rules and conditions of transferring the above to the archives, and the manner of utilization, shall be established by the board of trustees in agreement with the Board in a separate set of rules.

#### *Section 28*

(1) As of 1 January 1997, public service television shall edit

a) at least fifty-one percent of its annual broadcasting time, not including advertising, news, sports broadcasts, competitions/quiz shows and games, from Hungarian-made programmes, and together therewith, at least seventy percent of the above-defined broadcasting time from European-made programmes;

b) at least thirty percent of its total broadcasting time, not including advertising, news, sports broadcasts, competitions/quiz shows and games, in the average of one calendar month, from Hungarian-made programmes, and together therewith, at least fifty-one percent of such broadcasting time from European-made programmes;

c) at least fifteen percent of its annual broadcasting time edited from motion pictures, and as of January 1, 1999, at least twenty percent thereof, from the works of authors/creators who are Hungarian citizens or Hungarian nationals, or works prepared with the participation of artists who are Hungarian citizen or Hungarian nationals, or from Hungarian-made motion pictures, and at least twenty percent of which are new, thirty percent of which are not the self-made motion pictures of the Hungarian Television and Duna Television. These ratios shall apply accordingly also in respect of children's and youth programmes;

d) at least ten percent of its annual broadcasting time, not including advertising and sports broadcasts, and as of January 1, 1999, at least fifteen percent thereof, from other than self-made but Hungarian-made broadcasts.

(2) The ratios defined in subsection (1) shall also be enforced during prime time.

(3) At least thirty percent of the annual broadcasting time edited from musical programmes of public service radios shall be edited from the works of composers/creators who are Hungarian citizens or Hungarian nationals, or from works made with the participation of artists who are Hungarian citizens or Hungarian nationals, or from Hungarian-made programmes.

(4) Public service broadcasters shall satisfy their obligations defined in this Title equally and separately in respect of each broadcasting provided by them.

### ***Title 4***

#### **Rules and Regulations of Public Service Broadcasting and of Broadcasting**

##### *Section 29*

(1) Public service broadcasters shall draw up and apply rules of public service broadcasting, while public broadcasters shall draw up and apply rules of broadcasting.

(2) The following shall be regulated in the rules of public service broadcasting and the rules of broadcasting:

a) the guarantees of independence from parties and political movements,

- b) the principles regarding the presentation of the multicoloured, objective and balanced nature of the news and topical political broadcasts, and disputed matters, and the presentation of the many-sided nature of opinions and views,
- c) the professional requirements serving to foster culture in the mother tongue,
- d) the method of presenting the culture and life of the national and ethnic minorities living in Hungary, also with regard to the provisions contained in Section 26, subsection (2) of the Act,
- e) the system of the objective presentation of cultural, scientific, ideological and religious diversities,
- f) the manner of the broadcasting of programmes to be provided with distinctive signals,
- g) provisions related to minors,
- h) advertising and the sponsoring of programmes,
- i) the broadcasting of announcements of public interest,
- j) the extent and guarantees of the independence and responsibility of the programme makers employed by the public service broadcaster and the public broadcaster, the guarantees of their participation in the definition of the principles of the making of programmes and editing of broadcasts, respecting the enforcement of the right of citizens to the freedom of information,
- k) the rules of conflicts of interests and rules of conduct applying to the staff, with special regard to those employed in political and news programmes,
- l) the professional rules of the activity of programme-making,
- m) the general responsibilities of broadcasting to foreign countries and of the broadcasting mentioned in Section 134, subsection (3), and the guidelines of the fulfillment thereof and of broadcasting for the planned reception area.

(3) The rules of public service broadcasting and the rules of public broadcasting shall provide for that the orders of public service broadcasters and of public broadcasters, as well as the commissions of the external staff, should not create opportunities for the employees of public service broadcasters and public broadcasters to gain unfair/unjust advantage.

(4) The draft of the rules of public service broadcasting shall be sent to the board of trustees of the public foundation for approval within nine months of the coming into force of the Act. The board of trustees may approve the rules with the agreement of the Board.

### *Section 30*

(1) The Hungarian Radio and the Hungarian Television shall provide public broadcasting services for the vast majority of the population of the country, while Duna Television shall provide such services primarily for Hungarians living outside the borders of the Republic of Hungary.

(2) In the case of radio broadcasting, service provided for the vast majority of the population shall be construed as broadcasting which can be received by eighty percent of the population in the 87.5-108.0 MHz frequency band; in the case of surface television broadcast dissemination, it shall be construed as broadcasting with an at least ninety percent reception area.

## **CHAPTER III NATIONAL RADIO AND TELEVISION BOARD**

### *Title 1*

## **Legal Status and Organization of the National Radio and Television Board**

### *Section 31*

(1) The National Radio and Television Board shall protect and promote the freedom of speech by helping broadcasters to appear on the market, by breaking down any information monopolies and preventing the creation of new ones, by protecting the independence of broadcasters; it shall pay attention to the enforcement of the constitutional principles of the freedom of the press and shall inform Parliament thereof.

(2) The Board and its members are only subject to the law, and cannot be instructed within the sphere of their activity.

### *Section 32*

(1) The Board is an independent legal entity under the supervision of Parliament, which is financially managed by duly applying the legal regulations relating to the financial management of budgetary institutions, including the fact that the Hungarian State Treasury maintains its accounts. The budget of the Board shall be approved by Parliament in a separate Act, within the budget stipulated in Subsections (2) and (3), of Section 84, to the debit of the funds set forth in Subsection (3) of Section 77. The Parliamentary committee competent for budgetary matters shall submit the draft legislation to the Parliament by 31 October of the year preceding the pending budget year, based on the proposition of the Board furnished by 31 August, or, failing such, based on the assessment of the expert(s) appointed by the Board. The State Audit Office shall audit financial management of the Board.

(2) Until the approval of the new budget, the Board shall operate on the basis of its earlier approved budget.

(3) The Parliament shall decide, by the approval of the bill on final accounting submitted as described in Subsection (1), on the execution of the separate law set forth in Subsection (1), including the appendix set forth in Subsection (6) of Section 77. In respect of this law, the deadlines for submission shall be 31 May and 31 August of each year.

(4) The Board is seated in Budapest.

(5) The office of the Board is the official agency of the Board.

(6) The term of the mandate of the members of the Board shall, following the termination of their mandate, qualify at all times as a term served in employment, or in a public servant or civil servant legal relationship, in a service legal relationship, or in service with a court or a prosecuting attorney's office.

(7) Employers shall allow members of the Board to take unpaid leave for the term of the mandate or a part thereof, as requested by the members of the Board, as of the date of the establishment of the Board. The term of such unpaid leave shall qualify as a term of service entitling the members to pension.

(8) If, prior to his election, a member of the Board terminated his employment, or public servant or civil servant legal relationship, service legal relationship, or service with a court or prosecuting attorney's office for reasons of conflict of interests as defined in this Act, he shall be reinstated in his original position and service relationship at his written request submitted within thirty days of the termination of his mandate.

(9) Regulations governing persons in an employment relationship shall apply to the legal status of the members of the Board with regard to social security insurance, with the proviso that their remuneration shall be the income serving as the basis for social insurance and pension insurance contributions. The provisions of Act LXXXVIII of 1996 shall apply to the payment of health insurance contributions. The agreement concluded between the Office of the Board and the National Health Insurance Fund and the Central Administration of the National Pension Insurance

Fund shall regulate payment and accounting of the contributions, as well as record-keeping and data disclosure pertaining to such.

(10) The employees of the office are civil servants, and Act XXIII of 1992 on the Legal Status of Civil Servants (hereinafter "CSA") shall apply thereto, with regard to the differences contained in this Act. The head of the office shall be appointed by the Chairman of the Board who shall exercise the employer's rights in his respect. The legal status of the head of the office is the same as that of the deputy state secretary.

(11) Based on commissions, the office may also use external experts.

## ***Title 2***

### **Election of the Board**

#### *Section 33*

(1) The Board is elected by Parliament, with the votes of more than half of the Members, for a term of four years. The Chairman and members of the Board (hereinafter together "members of the Board") cannot be recalled.

(2) The minimum number of the members of the Board is five persons.

(3) The Chairman of the Board shall be nominated jointly by the President of the Republic and the Prime Minister.

(4) The other members of the Board shall be nominated by the groups of Members of Parliament. Each group of MPs may nominate one member. If there is only one group of MPs on the government party side or the opposition side, that group of representatives may nominate two members.

(5) Candidates may be nominated within eight days of the commencement of the proceedings aimed at the election of the Board. The candidates shall be heard, without voting, by the committee of Parliament competent in cultural and press matters. A candidate who is re-nominated by a group of MPs after an unsuccessful election need not be heard again.

(6) The election shall be held within fifteen days of nomination. A new candidate shall be nominated in place of an unelected candidate within fourteen days. A person who did not get at least ten percent of the votes of all the MPs in the course of the previous election may not be re-nominated.

(7) The Board is established when all of its members are elected. If one of the groups of MPs does not nominate a candidate by the deadline defined in subsection (5), it is not an obstacle to the establishment of the Board; if the group of MPs exercises the right of nomination following the establishment of the Board, based thereon Parliament shall elect a new member to the Board for the remaining term of the mandate of the Board.

(8) If, following the election of the Board, a new group of MPs is set up, Parliament shall elect a new member to the Board on the basis of the nomination of this group of MPs for the remaining term of the mandate of the Board.

## ***Title 3***

### **Conflict of Interests**

#### *Section 34*

(1) Hungarian citizens who are graduates of higher education and have a clean criminal record may be elected to be members of the Board, if they have at least five years' professional

experience. The following activities shall be regarded in particular as professional experience: information service, programme editing and making, broadcasting, telecommunications, frequency management, as well as the technical, legal, administrative, economic, cultural, scientific and public opinion survey activities related thereto.

(2) The following may not be members of the Board:

*a)* President of the Republic, Prime Minister, members of the Government, state secretaries, the Lord Mayor, mayors, Chairmen of the county general assemblies and the deputies thereof, MPs or the paid employees thereof, civil servants, officers of the national or regional organizations of parties,

*b)* heads, members of the management bodies and managers of broadcasters, broadcast disseminators, publishers and newspaper distributors, and those who are in a work-related contractual relationship with broadcasters, broadcast disseminators, publishers and newspaper distributors,

*c)* broadcasters, broadcast disseminators, publishers and newspaper distributors and those who have direct or indirect ownership shares in such economic associations,

*d)* members of the board of trustees of the Hungarian Radio Public Foundation, the Hungarian Television Public Foundation and the Hungária Television Public Foundation, or the employees of the public foundations.

(3) The close relatives, as defined in Section 685, paragraph *b)* of the Hungarian Civil Code, of the persons falling under the effect of subsection (2), paragraphs *a)*-*c)* may not be members of the Board.

(4) Prior to their election, candidates shall make a written statement whereby there are no conflicts of interests in respect of them, or, in case they are elected, they will terminate such conflict of interests without delay.

#### *Section 35*

(1) The members of the Board

*a)* may not have a work-related contractual relationship with broadcasters, broadcast disseminators, the publishers of weeklies or newspapers, or newspaper distributors,

*b)* may not be the owners (members, shareholders, members of the Board of Directors or the Supervisory Board, managing directors or auditors) of the organizations defined in paragraph *a)*, including the members of the managing organization of the foundation.

(2) The close relatives, as defined in Section 685, paragraph *b)* of the Hungarian Civil Code, of the members of the Board may not be the owners (members, shareholders), members of the board of trustees, Board of Directors or Supervisory Board, managers or auditors of the organizations listed in subsection (1), paragraph *a)*.

(3) The rules of conflicts of interests defined in subsections (1) and (2) shall apply also in the six months following the termination of the mandate of Board membership.

(4) Members of the Board may not, during the (whole) term of the broadcasting entitlement, while the close relatives, as defined in Section 685, paragraph *b)* of the Hungarian Civil Code, of the members of the Board may not, during the first half of the term of the entitlement, establish a work-related contractual relationship with a broadcaster who/which received the broadcasting entitlement during the term of their mandate. In respect of registration as broadcast transferor, these terms are, in the case of the members of the Board, four years, while in the case of close relatives, two years, reckoned from the termination of the mandate of Board membership.

(5) The members of the Board may not pursue party political activities and may not make party political statements.

(6) The members of the Board may not perform other gainful activities than scientific, teaching, literary, artistic and other activities falling under copyright protection, and may not accept remuneration from broadcasters for their scientific, teaching, literary, artistic and other activities falling under copyright protection.

#### ***Title 4***

#### **Obligations of the Members of the Board**

##### *Section 36*

(1) The members of the Board shall keep the state secrets, service and business secrets they become aware of in the course of the fulfillment of their responsibilities.

(2) On entering office, the members of the Board shall swear an oath, the text of which is defined in the *Schedule* to the Act, before the Speaker of Parliament.

(3) On entering office and on termination of their mandate, the members of the Board shall make a declaration of property. The declaration of property shall be kept by the Speaker of Parliament.

#### ***Title 5***

#### **Termination of the Mandate of the Members of the Board**

##### *Section 37*

(1) The mandate of the members of the Board shall terminate:

*a)* on expiry of the term of the mandate of the Board,

*b)* through resignation,

*c)* for reasons of conflicts of interests,

*d)* through release from responsibilities,

*e)* through exclusion,

*f)* through loss of the mandate,

*g)* through the member's death,

*h)* through the termination of the group of MPs nominating the member,

*i)* through the termination of the mandate of the Board [Section 45, subsection (1), paragraph *c*].

(2) The termination of the mandate of the members of the Board shall be established and announced in the case defined in subsection (1), paragraph *b*) and paragraphs *f*)-*i*) by the Chairman of the Board, while in the case defined in subsection (1), paragraphs *c*), *d*) and *e*) by a full meeting of the Board. The termination of the mandate of the Chairman of the Board, with the exception of the case defined in subsection (3), shall be established jointly by the President of the Republic and the Prime Minister.

(3) If a conflict of interests arises in respect of a member or the Chairman of the Board, and the conflict of interests is not terminated within ten days of the date of the meeting establishing the conflict of interests, the full meeting of the Board shall establish in a resolution that the Board membership of the member or the Chairman is terminated. The member or the Chairman of the Board may not exercise his powers arising from his office as of the date of the adoption of the resolution establishing the conflict of interests.

(4) The mandate is terminated through release from responsibilities if the member of the Board is unable to fulfill his responsibilities arising from his mandate for a continuous period of more than three months, for reasons not imputable to him.

(5) The mandate is terminated through exclusion if the member of the Board

a) fails to fulfill his responsibilities arising from his mandate for a period of more than three months, for reasons imputable to him,

b) his guilt is established by a non-appealable sentence imposing imprisonment.

(6) The investigating authority shall notify the Board of any criminal proceedings instituted against the members or the Chairman of the Board. A full meeting of the Board may suspend the member of the Board with a majority of votes, while the Chairman of the Board with a two-third majority of votes, from the exercise of his competence arising from his office, until the criminal act is judged non-appealably.

(7) If the right of a group of MPs to nominate two Board members ceases, the group of MPs may, within fifteen days, state which member's mandate they wish to maintain of the members elected at the same date. If the group of MPs does not make a statement, the mandate of the members elected at the same time shall be lost simultaneously, and the group of MPs may exercise the right of nomination again. If the two members were not elected simultaneously, the mandate of the member elected later shall be lost.

(8) If the meeting of the Board decides on conflict of interests, release or exclusion, the member concerned may not take part in the voting, and the unanimous decision of those entitled to vote is required in such matters. If no unanimous decision is reached in the case of a repeated voting procedure concerning the issues mentioned above, the Chairman of the Board shall propose that Parliament make the decision. In this case, Parliament shall decide on the conflict of interests, release or exclusion with a two-third majority of votes of the attending MPs.

(9) In the case of the Chairman of the Board, the member defined in the procedural rules shall proceed in the Chairman's legal competence in the proceedings defined in subsections (3), (6) and (8).

#### *Section 38*

(1) In the case of the termination of the mandate of a member of the Board, the nomination procedure shall be commenced within eight days. That group of MPs may nominate a new candidate which had previously nominated a candidate in respect of the current vacancy.

(2) The mandate of the new member is for the period of time that is left of the mandate of the Board.

### ***Title 6***

#### **Remuneration of the Members of the Board**

##### *Section 39*

(1) The Chairman of the Board shall receive the same remuneration as a Minister, while the members shall receive the same amount of remuneration as administrative state secretaries, and the same benefits as persons filling such positions. The Chairman and members of the Board are entitled to a leave of forty working days per calendar year.

(2) Following the expiry of the term of the mandate of the members and the Chairman of the Board, unless they are re-elected, they are entitled to an amount of pay corresponding to their monthly remuneration for a further period of six months.

(3) In the case of the release of a member of the Board from his responsibilities for health reasons, he is entitled to severance pay, the amount of which corresponds to six months' remuneration; if the mandate lasted for a shorter period of time, for the term of holding the mandate at most.

(4) In the case of release from responsibilities for reasons of conflict of interests or exclusion, the member or Chairman is not entitled to severance pay.

## ***Title 7***

### **Operation of the Board**

#### *Section 40*

(1) The Board itself shall define its by-laws which shall be published in the Hungarian Gazette (Magyar Közlöny).

(2) The by-laws shall contain the matters related to the activities of the members and the Chairman and not regulated in this Act.

(3) If the Chairman of the Board is unable to attend the meeting of the Board, the responsibilities of the Chairman shall be fulfilled by the members of the Board in the order defined in the by-laws, one after the other. The member fulfilling the Chairman's responsibilities may take part in voting.

## ***Title 8***

### **Responsibilities of the Board**

#### *Section 41*

(1) Responsibilities of the Board:

a) it shall fulfill the responsibility of inviting tenders and assessing the bids received in respect of broadcasting rights and the satellite channels provided for the purpose of the broadcasting and disposed over by the Government;

b) shall fulfill the supervisory and inspection responsibilities as defined in this Act,

c) shall operate a Complaint Committee for the investigation of case-to-case reports;

d) shall operate a programme monitoring and analysing service: it shall deliver the full material of surveys and evaluations, respective to the parties concerned, to the Hungarian Radio Public Foundation, the Hungarian Television Public Foundation, the Hungária Television Public Foundation and to the Hungarian News and Press Service Company, as well as to public service broadcasters continuously and free of charge. Said Public Foundations and the Hungarian News and Press Service Company may make proposals on the considerations used for surveys.

e) shall review the drafts of the legal rules relating to frequency management and telecommunication;

f) shall nominate a number of members defined in a separate Act to the National Telecommunications and Informatics Council;

g) shall fulfill the responsibilities related to the broadcasting contracts;

h) shall keep a public register of the broadcasting and broadcast transferors based upon broadcasting contracts, or registered, as the case may be;

i) shall, on a regular basis, control compliance with the broadcasting contracts concluded with it;

j) shall prepare positions and proposals in respect of the theoretical issues of the development of the Hungarian broadcasting system, including the multi-channelled cable systems and the

connections with the audio-visual sector, and shall be involved in the preparations for the making of decisions in this area;

*k)* shall initiate the proceedings related to the protection of consumers and the prohibition of unfair market practices;

*l)* shall provide the information necessary for the planning of the central budget and for controlling the execution thereof;

*m)* shall establish the rate (rates) of the fee of broadcasting through broadcast transfer and satellite transmission/dissemination, and shall publish the same;

*n)* shall fulfill its other responsibilities defined in this Act and in other legal rules issued on the basis of the authorization granted in this Act.

(2) The Board shall fulfill the responsibility defined in subsection (1), paragraph *i)* through the reception and recording of the broadcast or through the investigation of the broadcast recorded by the broadcaster, and by contacting the authorities.

#### *Section 42*

(1) When formulating its concept of frequency management affecting broadcasting, the Board shall take the needs of non-profit-oriented broadcasting into consideration.

(2) The Board shall publish its concept relating to the management of the available frequencies affecting broadcasting in the Education Gazette (Mûvelödési Közlöny).

### ***Title 9***

#### **Report of the Board**

##### *Section 43*

(1) The Board shall send its report concerning the previous year's activity to Parliament by March 1 of each year. The following shall be evaluated in particular in the report:

*a)* the situation of the balanced state of the freedom of opinion and the provision of information,

*b)* the development of the ownership situation of broadcasters and the daily newspapers, weeklies, newspaper distributors and broadcast transferors connected thereto as defined in Chapter VIII of this Act,

*c)* the situation of frequency management serving to satisfy the needs of broadcasting,

*d)* the economic situation of broadcasting and the development of the financial conditions thereof; it shall initiate eventual amendments to the Act.

(2) The report shall be published in the Education Gazette (Mûvelödési Közlöny).

### ***Title 10***

#### **Rules of Adopting Decisions**

##### *Section 44*

(1) In the cases defined in Sections 45 and 46 the Chairman shall not vote.

(2) The rate of the Chairman's right of voting shall correspond to the value of the following fraction:

*a)* if the numbers of the members nominated by the government party and opposition groups of MPs are equal, the numerator of the fraction is one, and its denominator is the total number of the members plus one,

*b)* if the numbers of the members nominated by the government party and opposition groups of MPs are not equal, the numerator of the fraction is one, while its denominator is double the

number of Board members nominated in a higher number by the government party or opposition groups of MPs plus one.

(3) The rate of the voting rights of the Board shall be calculated as follows:

*a)* if the Chairman may participate in the voting, the rate of the Chairman's vote shall be deducted from the total votes, and fifty percent of the votes so determined shall be divided equally among the members nominated by the government party groups of MPs, while the other fifty percent shall be divided equally among the members nominated by the opposition groups of MPs;

*b)* if the Chairman may not take part in the voting, fifty percent of the votes shall be divided equally among the members nominated by the government party groups of MPs, while the other fifty percent shall be divided equally among the members nominated by the opposition groups of MPs.

(4) The Board shall adopt its resolutions with a simple majority vote, based upon the votes calculated in accordance with subsections (2) and (3), with the exception of the cases defined in Sections 45 and 46.

#### *Section 45*

(1) The tenders invited in respect of the national radio and television broadcasting rights shall be assessed as follows:

*a)* in the first round of voting, the Chairman of the Board is not entitled to vote. A two-third majority of those entitled to vote is required for the validity of the decision adopted;

*b)* if no decision was adopted in the first round of the voting, the Board shall have a new vote at least three days and at most eight days later. In this round, the Chairman, too, has the right to vote. A two-third majority of those entitled to vote is required for the validity of the decision adopted;

*c)* if also the voting defined in subsection *b)* is unsuccessful, the mandate of the Board, with the exception of the mandate of the Chairman, shall terminate. Within thirty days of the termination of the mandate, Parliament shall elect new Board members in accordance with the order of nomination and election described in Section 33, with the difference that in the course of this the members of the previous Board may not be nominated.

(2) The Board elected in accordance with subsection (1), paragraph *c)*, shall, without the invitation of a new tender, decide upon the bids submitted as follows:

*a)* in the first round of the voting, the Chairman, too, has the right to vote. A two-third majority of those entitled to vote is required for the validity of the decision adopted;

*b)* if no resolution was adopted in the first round of the voting, the Board shall have a new voting procedure at least three days and at most eight days later. The Chairman has the right to vote also in this round. A simple majority of those entitled to vote is required for the validity of the decision adopted. If no decision is taken on this occasion, either, a new tender shall be invited within sixty days.

#### *Section 46*

(1) The general tender conditions and the national and regional broadcasting tender invitations shall be defined as follows, and the tenders invited in respect of the regional radio and television broadcasting rights shall be assessed as follows:

*a)* in the first round of voting, the Chairman of the Board is not entitled to vote. The two-third majority of those entitled to vote is required for the validity of the decision adopted;

b) if no decision was adopted in the first round of voting, the Board shall have a new vote at least three days and at most eight days later. In this round, the Chairman, too, has the right to vote. The two-third majority of those entitled to vote is required for the validity of the decision adopted;

c) if no decision was adopted in the second round of the voting in respect of the general tender conditions or the invitations to tender, the Board shall have a new vote at least thirty and at most sixty days later. The Chairman has the right to vote also in this round. The simple majority of those entitled to vote is required for the validity of the decision adopted;

d) if, in the course of the assessment of tenders invited in respect of the regional radio and television broadcasting rights, no decision was adopted in the second round of voting, either, a new tender shall be invited within sixty days.

(2) Method of the assessment of tenders invited in respect of the local radio and television broadcasting rights:

a) the Chairman of the Board is entitled to vote in the first round of voting. A two-third majority of those entitled to vote is required for the validity of the decision adopted;

b) if no decision was adopted in the first round of voting, the Board shall have a new vote at least three days and at most eight days later. The Chairman has the right to vote also in this round. The simple majority of those entitled to vote is required for the validity of the resolution adopted.

(3) If no decision was adopted in the course of the assessment of the bids, a new tender shall be invited within sixty days.

## ***Title 11***

### **Complaint Committee**

#### ***Section 47***

(1) Complaints lodged on the grounds of the infringing the requirement of providing balanced information (Section 4) shall be assessed by the Complaint Committee of the Board (hereinafter "Complaint Committee"). The members of the Complaint Committee shall be appointed by the Board for a term of five years.

(2) The members of the Complaint Committee are independent, are only subject to the law, and cannot be instructed in the course of the performance of their activity.

(3) The following may not be members of the Complaint Committee: members of the Board, the boards of trustees of the Hungarian Radio Public Foundation, the Hungarian Television Public Foundation and Hungaria Television Public Foundation, and those who would not be eligible to be members of the Board. The detailed regulation of the appointment of the members of the Complaint Committee is contained in the by-laws of the Board.

(4) Members of the Complaint Committee shall, without delay, report any conflict of interests to the Chairman of the Board. If criminal proceedings are instituted against a member of the Complaint Committee, the investigating authority shall notify the Board thereof. With regard thereto, the Board may suspend the member of the Complaint Committee from the exercise of his powers.

(5) The Board shall terminate the appointment of the member of the Complaint Committee in the case of a conflict of interests, and if a court sentenced the member of the Complaint Committee to imprisonment in a non-appealable sentence due to an intentional criminal act.

#### ***Section 48***

(1) A three-member council shall proceed in the individual cases. One of the members of the proceeding council shall be a person with law degree.

(2) The by-laws of the Complaint Committee and the by-laws of the councils proceeding in the individual cases, including the rules relating to the exclusion of a member of the proceeding Complaint Committee on the grounds of bias, shall be established by the Board. In the course of this, attention shall be paid to the enforcement of the principles of the equality of the parties, publicity and impartiality.

(3) The by-laws of the Complaint Committee shall also contain the order of the settlement of the complaint cases not falling under Section 4. In cases of this nature, the Complaint Committee shall assess the complaint and shall inform the complainant, the broadcaster concerned, and, if it deems it necessary, the public opinion, of its position.

(4) The official responsibilities related to the operation of the Complaint Committee shall be fulfilled by the office of the Board.

(5) The Board shall, at least twice a year, discuss and evaluate the positions taken by the Complaint Committee.

#### *Section 49*

(1) If the broadcaster provides information on social issues arousing the attention of the population of the reception area in a one-sided manner, in particular, if it only offers the opportunity for presenting or expressing a single or a one-sided opinion on controversial issue, or if it grossly violates the requirement of providing balanced information in any other way, the representative of the opinion not expressed or the prejudiced party (hereinafter "protestor") may turn to the broadcaster with his protest.

(2) The protestor may request the broadcaster in writing to make known its position under circumstances similar to those of the presentation of the protested position within forty-eight hours of the broadcasting of the protested communication, or, in the case of multiple broadcasting, of the last repetition; in the case of a person residing (staying, operating) outside the border of the Republic of Hungary, within eight days. The protestor may not exercise his right of protest if another representative of the same position has already been given a chance to present the position not presented earlier, or if the protestor has been given this opportunity but has failed to take advantage thereof.

(3) The broadcaster shall decide on the acceptance or refusal of the protest within forty-eight hours of the receipt thereof. The protestor shall be informed of the decision without delay. The protestor may submit a written complaint, identifying precisely the programme protested and the broadcaster, to the Complaint Committee, within forty-eight hours of the communication of the decision, or, in the case of no such communication, within six days of the protested broadcast or broadcast found injurious; in the case of foreigners, within twelve days. A complaint may be submitted to the Complaint Committee also if the broadcaster fails to comply with the contents of the protest in spite of a statement of acceptance. In this case, the complaint shall be submitted to the Complaint Committee within forty-eight hours of the expiry of the deadline set for complying with the protest.

(4) The Complaint Committee shall, within fifteen days of the submission of the complaint, make a statement on the issues presented by the protestor.

(5) At the request of the Complaint Committee the broadcaster shall, without delay, make the material recording the disputed programme available for the Complaint Committee, and shall provide the Complaint Committee with the information required in connection with the matter.

(6) The Complaint Committee may hear the broadcaster and the protestor. Absence from the hearing shall not be an obstacle to taking a position.

#### *Section 50*

(1) The Complaint Committee shall reject unjustified complaints and complaints submitted in a manner not satisfying the conditions defined in this Act.

(2) If, based upon the position taken by the Complaint Committee, the broadcaster has violated the requirement of the balanced provision of information, the broadcaster shall, at the date and in the manner defined by the Complaint Committee, in accordance with the contents of the statement of the Complaint Committee, communicate the statement of the Complaint Committee, without any evaluating commentary, or shall enable the protestor to present his viewpoint.

(3) In the case of more serious or repeated violations of the requirement of providing balanced information, the Complaint Committee may initiate that the Board impose a fine.

#### *Section 51*

(1) Applications for legal redress against the position taken by the Complaint Committee may be submitted to the Board within forty-eight hours of the disclosure of the position. The application of the broadcaster for legal redress shall have a delaying effect.

(2) The Board shall decide on the application for legal redress within eight days. The indicting decision of the Board, or if the Board rejects the application of the broadcaster, the position of the Complaint Committee, shall be executed with immediate effect.

(3) A court may be requested to review the resolution of the Board. The court shall proceed in accordance with the rules of Chapter XX of Act III of 1952 on the Code of Civil Procedure, as amended several times (hereinafter "CCP"). The court may alter the resolution of the Board.

(4) In addition to presenting a protest that proves to be justified in the programme of the broadcaster, the non-appealable decision indicting the broadcaster shall also be published in the Education Gazette (Művelődési Közlöny).

### ***Title 12***

#### **The Relationship between the Board and the Telecommunications Supervision**

##### *Section 52*

(1) In the interest of the preparation of broadcasting tenders, the Board shall request the Telecommunications Supervision, through the Minister of Transport, Telecommunications and Water, to draw up the list of broadcasting possibilities and the related frequency plans.

(2) If the Telecommunications Supervision is unable to meet the request by the date indicated by the Board, the Minister of Transport, Telecommunication and Water may allow the extension of the deadline.

(3) The Board shall define the following in the request mentioned in subsection (1):

a) the theoretical considerations necessary for frequency planning for broadcast diffusion purposes, in particular, in respect of the purpose of frequency use;

b) the preferences to be applied in frequency planning for broadcast diffusion purposes;

c) the schedule and guidelines of frequency planning for broadcast diffusion purposes.

(4) The frequency plan prepared by the Telecommunications Supervision shall contain the following:

a) nominal establishments of the broadcast diffusion stations, in the case of surface broadcast transmission, and the other technical requirements of installation;

b) the reception area that may be supplied by the stations with broadcasting services, as expected;  
c) the frequency band identified by the signals defined in the International Radio Rules.

(5) The Board may return the frequency plan for amendment.

(6) The Board shall post the frequency plan in public display for a period of at least fifteen days prior to approval. The Board shall publish an announcement concerning the posting and its location in at least two national daily newspapers at least two weeks prior to the initial date of posting; in this announcement the Board shall identify the place and time of the public hearing to be held ten days following the closing of the posting, at the earliest. Section 94 shall apply to the public hearing.

(7) The frequency plans and the theoretical considerations for planning are public information which anybody may have access to at the Telecommunications Supervision.

## ***CHAPTER IV PUBLIC SERVICE BROADCASTERS***

### ***Title 1***

#### **Public Foundations**

##### ***Section 53***

(1) In accordance with Sections 140-141, Parliament hereby establishes the Hungarian Radio Public Foundation and the Hungarian Television Public Foundation, and, at the initiative of its founder, reorganizes and alters Hungaria Television Public Foundation (hereinafter together "public foundations") in the interest of providing for public service broadcasting and the protection of its independence.

(2) This Act shall not affect the name, purpose and assets of Hungaria Television Public Foundation.

(3) The deeds of foundation of the public foundations (the amendment to the deed of foundation of Hungaria Television Public Foundation) shall be approved by Parliament with the two-third vote of the attending representatives. The issues of the operation and organization of public foundations not regulated in this Act shall be defined in the deed of foundation.

(4) In regard to public foundations, the general provisions on public foundations - in the absence of provisions in this Act prescribing otherwise - shall be applied, stipulating that the accounts of such foundations shall be managed by the Hungarian State Treasury.

##### ***Section 54***

(1) The initial assets of the public foundation shall be established by Parliament in the deed of foundation.

(2) The founder shall, through supplementary asset allocation, transfer the following assets as earmarked assets:

a) the state-owned movable and immovable property and rights representing money and monies' worth of Magyar Rádió (Hungarian Radio), as budgetary institution, to the Hungarian Radio Public Foundation,

b) the state-owned movable and immovable property and rights representing money and monies' worth of Magyar Televízió (Hungarian Television), as budgetary institution, to the Hungarian Television Public Foundation,

c) the state-owned movable and immovable property used jointly by Magyar Rádió and Magyar Televízió, as budgetary institutions, following the division of property or, as is defined in the

deeds of foundation of the companies limited by shares, to the Hungarian Radio Public Foundation and/or the Hungarian Television Public Foundation.

## **Boards of Trustees**

### *Section 55*

- (1) The managing organizations of public foundations are the boards of trustees.
- (2) The boards of trustees shall be composed of the members elected by Parliament and of members delegated by the organizations defined in this Act.
- (3) The members elected by Parliament shall form the presidium of the board of trustees.
- (4) Parliament shall elect separately, one by one at least eight members to each of the three boards of trustees with the votes of more than one half of the MPs.
- (5) One half of the members who may be elected by Parliament to the board of trustees shall be nominated by the government party's groups of MPs, while the other half shall be nominated by the opposition groups of MPs in such a way that at least one candidate of each group of MPs shall be elected.
- (6) Nominations for candidates shall be made within eight days of the commencement of the proceedings aimed at election. The election shall be held within fifteen days of the nomination of candidates.
- (7) If a group of MPs does not take part in the nomination, another (the other) group(s) of MPs of the given side may nominate four persons each. A new candidate shall be nominated in place of a candidate not elected, and the new election shall be held within fifteen days. A person who did not receive at least ten percent of the votes of all the MPs in the course of the previous election may not be nominated again.
- (8) The presidium of the board of trustees is formed when all the members have been elected. However, it is not an obstacle to the formation of the presidium of the board of trustees if either the government party or the opposition side does not nominate a candidate.
- (9) The presidium of the board of trustees is elected for a term of four years. If, during the mandate of the presidium, there is a change in respect of the government party and opposition groups of MPs, this shall not affect the mandate of the members of the presidium but if it is necessary in the interest of maintaining equal ratios, a new member or new members shall be elected on the basis of new nomination(s) for the remaining term of the mandate of the presidium. If the groups of MPs of the given side are unable to come to an agreement on nominating a joint candidate (candidates), the nomination shall be decided by drawing lots.
- (10) The Chairman of the board of trustees, and also of the presidium, shall be elected by Parliament from among the members of the presidium on the basis of the nomination of the government party group(s) of MPs, while the Deputy Chairman shall be elected by Parliament from among the members of the presidium on the basis of the nomination of the opposition group(s) of representatives.
- (11) If the groups of MPs are unable to come to an agreement concerning the nomination of the Chairman and the Deputy Chairman, the nomination shall be decided by drawing lots.

### *Section 56*

- (1) The following organizations shall delegate twenty-one members to the board of trustees of the Hungarian Radio Public Foundation and twenty-one members to the board of trustees of the Hungarian Television Public Foundation:

- a) the national self-governments of the national and ethnic minorities living in Hungary, in the absence of these, the national associations of the above, one person;
- b) the Hungarian Catholic Church, the Hungarian Reformed Church, the Hungarian Lutheran Evangelic Church and the Association of the Hungarian Jewish Religious Communities, one person;
- c) the churches not mentioned in paragraph b), one person;
- d) the national human rights organizations, one person;
- e) the national professional organizations operating in the areas of literature, theatre, film, performing arts, music, dance, fine arts and crafts and in other areas of culture, four persons;
- f) the national professional organizations operating in the areas of education and science, two persons;
- g) the national associations of trade unions, one person;
- h) the national professional organizations of interest representation of employers and entrepreneurs, one person;
- i) the national professional organizations of interest representation of journalists, one person;
- j) the national organizations of environmental protection, nature preservation and animal protection, one person;
- k) the national organizations of interest representation of women, one person;
- l) the national organizations of interest representation of children and the youth, one person;
- m) the national organizations of interest representation of pensioners, one person;
- n) the national organizations of interest representation of those in a seriously disadvantaged position due to their physical condition, one person;
- o) the national organizations of interest representation of sports, one person;
- p) the national organizations of interest representation of settlement local governments, one person;
- r) Hungarian organizations outside the borders, one person.

(2) The following organizations shall delegate twenty-three members to the board of trustees of Hungaria Television Public Foundation:

- a) the national self-governments of the national and ethnic minorities living in Hungary, in the absence of these, the national associations of the same, one person;
- b) the Hungarian Catholic Church, the Hungarian Reformed Church, the Hungarian Lutheran Evangelic Church and the Association of the Hungarian Jewish Religious Communities, one person;
- c) the churches not mentioned in paragraph b), one person;
- d) the national human rights organizations, one person;
- e) the national professional organizations operating in the areas of literature, theatre, film, performing arts, music, dance, fine arts and crafts and other areas of culture, three persons;
- f) the national professional organizations operating in the areas of education and science, two persons;
- g) the national organizations of interest representation of journalists, one person;
- h) the national organizations of environmental protection, nature preservation and animal protection, one person;
- i) the national organizations of interest representation of women, one person;
- j) the national organizations of interest representation of children and the youth, one person;

*k)* the national organizations of interest representation of those in a seriously disadvantaged position due to their physical condition, one person;

*l)* the national organizations of interest representation of sports, one person;

*m)* the representatives of Hungarian organizations operating in the neighbouring countries, seven persons; the body entitled to represent the Hungarians scattered around the world in the World Federation of Hungarians, one person.

(3) The organizations mentioned in subsection (1), paragraph *r)* and subsection (2), paragraph *m)* shall be notified by the Board on the recommendation of the Office of Hungarians Living Outside Hungary.

#### *Section 57*

(1) With the exception of those mentioned in Section 56, subsection (3), the organizations registered by the Board are entitled to delegate members.

(2) The Board shall publish the notice concerning registration in the Hungarian Gazette (Magyar Közlöny) by 31 January of each year. Applications for registration may be submitted by 15 March of each year.

(3) From among the applicants, the Board shall register the organizations which had been registered by the court (authorities) in accordance with the rules applicable to them at least two years before the publication of the notice inviting applications. The applicant shall specify which of the groups defined in Section 56 it belongs to.

(4) The term of the mandate of the delegated members of the board of trustees is one year.

(5) The organizations falling into the same group as defined in Section 56 and registered by the Board are entitled to delegate representatives annually to the board of trustees. If the participants cannot fully agree upon the delegation, the decision shall be taken by drawing lots publicly. The drawing of lots shall be performed by the Board, with the participation of a notary public, by April 1 of each year, at the same time in respect of all three boards of trustees. Those organizations may take part in the drawing of lots, the representatives of which attend the drawing of lots. The agreement or drawing of lots concerning delegation shall be valid for one year.

(6) Based on the drawing of lots, one organization may, at any one time, delegate a representative only to one board of trustees. If it were entitled to nominate delegates to several boards of trustees, it shall specify the board of trustees in which it wishes to exercise its right of delegation. In respect of the other board(s) of trustees the drawing of lots shall be repeated.

(7) If an organization has already exercised its right of delegation and there are other organizations in the same group that have not yet delegated a member, the organization mentioned earlier may take part neither in the agreement, nor in the drawing of lots within three years of the expiry of its mandate in the board of trustees.

#### *Section 58*

(1) The rules of conflicts of interests defined in Section 34, subsection (2), with the exception of paragraph *d)*, and Section 35, subsection (1) shall apply to the members and chairmen of the boards of trustees. The close relatives, as defined in Section 685, paragraph *b)* of the Hungarian Civil Code, of the Chairman and the members of the presidium may not be senior employees of the public service broadcaster concerned.

(2) Within one year of the termination of their membership, members of the boards of trustees may not establish a work-related contractual relationship with the public service broadcaster, in

the board of trustees of which they were members. In respect of the Chairman and the members of the presidium, this term is two years.

(3) The mandate of the board of trustees may be withdrawn prior to the expiry thereof by Parliament on the recommendation of the competent parliamentary committee on the basis of the provisions defined in Section 74/C, subsection (6) of the Hungarian Civil Code. Parliament shall decide on the release from responsibilities of the individual members or Chairman (Deputy Chairman) of the board of trustees for reasons of conflicts of interests or for the reasons defined in Section 37, subsections (4)-(5) of this Act, while in respect of the delegates of the organizations the decision shall be taken by the delegating organization. Parliament may decide on these issues with a two-third voting ratio of the attending MPs.

(4) The members (Chairman) of the board of trustees may not be employed by the public foundation. Section 35, subsection (5) shall apply to them. They may not accept remuneration on any legal grounds from the public service broadcaster supervised by them.

### **The Responsibilities and Powers of the Board of Trustees and the Presidium**

#### *Section 59*

(1) Powers of the board of trustees:

*a)* in respect of the public service broadcaster share company, exercising the rights of the general meeting on the basis of Act VI of 1988 on Economic Associations (hereinafter "AEA"), with regard to the differences defined in this Act,

*b)* approving the annual financial management plan of the public foundation and establishing its balance sheet,

*c)* making recommendations to the Board in the interest of increasing the operational fee revenues,

*d)*

*e)* that which is delegated by the deed of foundation of the public foundation, in accordance with this Act, to its competence.

(2) The presidium shall manage the assets of the public foundation in the legal status of the manager of the public foundation.

### **Financial Management of the Public Foundation**

#### *Section 60*

(1) The following comprise the revenues of the public foundation:

*a)* the proportion of the operating fee revenues defined in this Act,

*b)* the proportion of the broadcasting fee revenues defined in this Act,

*c)* the proceeds from the assets of the public foundation,

*d)* other receipts serving the purposes of foundation (subsidies and target subsidies from the state budget, payments made to the foundation).

(2) The following comprise the expenditures of the public foundation:

*a)* contributions to the operational and development expenses of public service broadcasters,

*b)* the public foundation's own expenses (expenditures).

(3) The public foundations may not pursue business-like economic activities, may not found other economic associations or non-profit associations, may not acquire shares in other operating economic associations, and are not entitled to establish foundations.

- (4) They shall cover their operational expenses from the part of the operating fees due to them, and any unused amounts shall be used for subsidizing public service broadcasters.
- (5) The financial management of public foundations shall be controlled by the State Audit Office.

## **Operation of the Board of Trustees and the Presidium**

### *Section 61*

- (1) The board of trustees and the presidium shall meet as frequently as is necessary to fulfill their responsibilities, but the board of trustees shall meet at least quarterly, while the presidium shall meet at least monthly. The meeting shall be convened by the chairman of the board of trustees (presidium) even if it intends to decide upon general meeting matters. The Chairman of the public service broadcaster shall be invited for these items on the agenda. The Chairman is obliged to convene an extraordinary meeting of the board of trustees (presidium) at the request of the majority of the members of the board of trustees (presidium) presented together with the agenda for a date within eight days. In the case of failure on his part to do so, those initiating the meeting are entitled jointly to convene the extraordinary meeting.
- (2) The voting rights of the members of the board of trustees (including the members of the presidium, the Chairman and the Deputy Chairman) are equal.
- (3) The meeting has a quorum if more than one half of the members and the Chairman or the Deputy Chairman are present. The majority vote of those present is necessary for adopting decisions. However, a two-third vote of those attending the meeting of the board of trustees is necessary for the election and one-time extension of the mandate of the Chairman of a public service broadcaster [Section 66, subsection (1), paragraph *b*].
- (4) Contrary to the provisions defined in subsection (3), decisions may be passed with a two-third vote of all the members in respect of the recall of the Chairman or the prohibition of the mandate or the withdrawal of the mandate of the Deputy Chairmen [Section 66, subsection (1), paragraph *c*], and the matters defined in Section 66, subsection (2), paragraph *b*) at the meeting of the presidium. More than one half of all the members of the board of trustees may recommend the recall of the Chairman [Section 66, subsection (1), paragraph *d*].
- (5) The agenda of the meeting shall be drawn up by the chairman; he shall also preside over the meeting. Any member may make proposals concerning the agenda in writing, in advance, and the meeting shall decide whether or not to incorporate them in the agenda.
- (6) If, based on Section 66, subsection (2), paragraph *b*), the presidium is unable to make a recommendation concerning the person of the Chairman of the broadcaster with the two-third majority of all the members, nor is it able to decide on inviting new applications with the same voting ratio within thirty days of the deadline for submitting applications, its mandate shall terminate. Parliament shall elect a new presidium within one month. In the course of this, the members of the previous presidium may not be nominated.
- (7) The administrative, business management and procedural responsibilities of the board of trustees shall be fulfilled by the secretariat of the board of trustees. Other rules concerning the organization and operation of the secretariat of the board of trustees shall be established by the deed of foundation.

## **Controlling Organization of the Public Foundation**

### *Section 62*

- (1) A controlling body shall control the activities of the board of trustees of the public foundation.

(2) The controlling body shall be composed of a Chairman and two members.

(3) The Chairman and one member of the controlling body shall be nominated by the opposition groups of MPs of Parliament, while the other member shall be nominated by the government party groups of MPs in accordance with the rules applicable to the presidium of the board of trustees with the proviso that MPs may also be nominated. The rules applicable to the members of the presidium of the board of trustees shall apply to the election thereof.

(4) The controlling body may request the board of trustees to provide information and may have access to the documents. It may not make decisions binding on the board of trustees. In the case of the unlawful decisions of the board of trustees, shortcomings related to the financial management of the public foundation, and decisions violating or endangering the realization of the objectives of the foundation, the controlling body shall inform the Speaker of Parliament and/or the State Audit Office. The annual report of the board of trustees shall be presented to Parliament together with the opinion of the controlling body.

### **Remuneration of the Members of the Board of Trustees and the Controlling Body**

#### *Section 63*

The members of the presidium are entitled to a remuneration corresponding to one hundred and forty percent of the basic remuneration of MPs, the Chairman is entitled to a remuneration corresponding to two hundred percent of the above basic remuneration, the Deputy Chairman is entitled to a remuneration corresponding to one hundred and eighty percent of the basic remuneration, the members of the controlling body are entitled to seventy percent of the basic remuneration, while the chairman of the controlling body is entitled to an amount corresponding to one hundred percent of the basic remuneration, and may also claim the reimbursement of costs. The reimbursement of costs is due also to the other members of the board of trustees.

#### *Title 2*

### **Magyar Rádió Company Limited by Shares, Magyar Televízió Company Limited by Shares and Duna Televízió Company Limited by Shares**

#### *Section 64*

(1) For the fulfillment of the responsibilities of the national public service radio and television, the Hungarian Radio Public Foundation and the Hungarian Television Public Foundation shall privately establish the Hungarian Radio Company Limited by Shares (hereinafter "MR Rt.") and the Hungarian Television Company Limited by Shares (hereinafter "MTV Rt.").

(2) Following the procedure defined in Sections 141-143 of this Act, as of the date defined therein, the Hungarian Radio and the Hungarian Television shall operate as one-man companies limited by share formed by the Hungarian Radio Public Foundation and the Hungarian Television Public Foundation.

(3) The rules applicable to companies limited by shares of AEA shall duly apply to MR Rt., MTV Rt. and Duna TV Rt. (hereinafter "companies limited by shares"), with regard to the differences defined in this Act, including the common rules of economic associations.

(4) The company limited by shares has a single unsalable share.

#### *Section 65*

The public foundations shall exercise the founder's and shareholder's rights defined in Sections 288-300 of AEA in respect of the companies limited by shares. However, they are not entitled

- a) to change the basic scope of activities of the companies limited by shares,
- b) to terminate, unite, separate or transform the companies limited by shares into another organizational form,
- c) to withdrawn assets or profits (dividends) from the companies limited by shares,
- d) to define the programme structure, and the contents of the broadcasts and programmes of the companies limited by shares,
- e) to give the Chairman of the company limited by shares instructions in respect of the employer's rights exercised by him,
- f) to decide on a matter which, based on this Act, falls within the competence of another organization or the Chairman of the company limited by shares.

### **Competence of the General Meeting**

#### *Section 66*

(1) The following shall fall within the competence of the board of trustees:

- a) establish and amend the deed of foundation of the public service broadcaster, as a company limited by shares, and publish the same in the Hungarian Gazette (Magyar Közlöny),
- b) elect the Chairman of the company limited by shares, extend the mandate on a single occasion,
- c) recall the Chairman of the company limited by shares, prohibit the mandate of the Deputy Chairmen and the withdrawal of the mandate - at the meeting of the board of trustees following the measure taken by the Chairman of the company limited by shares,
- d) initiate the recall of the Chairman of the company limited by shares,
- e) protect the independence of the company limited by shares,
- f) approve the rules of public service broadcasting, publish the same in the Education Gazette (Művelődési Közlöny), enforce the requirements of the rules, evaluate the enforcement thereof annually,
- g) approve the rules concerning the order of transferring documents to the archives,
- h) evaluate the objectives contained in the application of the Chairman of the company limited by shares annually,
- i) raise and reduce the initial capital,
- j) approve the principles and main amounts of the annual financial management and financial plan,
- k) approve the annual broadcasting time, authorize the amendment thereof,
- l) define the amounts of money to be used for the new Hungarian-made motion picture works to be used in broadcasting, also in respect of the ratio of those made externally,
- m) approve the balance sheet and the profit and loss account,
- n) elect and recall the members of the supervisory boards of the companies limited by shares, with regard to the provisions contained in Section 13 of AEA,
- o) elect the auditor, terminate his appointment.

(2) The exclusive responsibilities and rights of the presidium of the board of trustees are:

- a) invite applications publicly in respect of the office of the Chairman of the company limited by shares, assess the applications received, establish the remuneration of the Chairman,
- b) make proposals concerning the election of the Chairman, or invite new applications, make proposals concerning the recall of the Chairman and the one-time extension of the mandate of the Chairman without inviting applications,
- c) control the financial management of the company limited by shares,

- da) grant prior authorization for negotiating contracts to the value of more than one thousand million forints or ten percent of the planned annual turnover,
- db) grant prior approval in respect of raising credit and contracts to the value of more than three hundred million forints or three percent of the planned annual turnover,
- dc) authorize the alienation of immovable property, and the alienation of rights representing money or monies' worth in excess of one hundred million forints,
- e) make proposals concerning the election and recall of the members of the supervisory board, establish their remuneration,
- f) make proposals concerning the appointment of the auditor and the termination of his appointment, establish his remuneration,
- g) control the enforcement of the rules of public service broadcasting, make preparations for the annual evaluation of the board of trustees,
- h) control the realization of the objectives defined in the application of the Chairman of the company limited by shares on a continuous basis, make preparations for the annual evaluation of the board of trustees.

#### *Section 67*

(1) The companies limited by shares shall be managed by the Chairman, and no board of directors shall operate. The Chairman shall exercise all the powers which are delegated by AEA to the board of directors of the company limited by shares. A legal relationship of commission shall be established with the Chairman, and his remuneration shall be established, once annually, in a monthly amount defined to the debit of the company managed by him.

(2) The Deputy Chairmen of the companies limited by shares shall be employees.

#### *Section 68*

The chairman of the company limited by shares shall give the board of trustees (presidium) an account of the activities of the company limited by shares under his direction.

#### *Section 69*

(1) Persons who held the offices of President of the Republic, Prime Minister, member of the Government, state secretary, deputy state secretary, MP, Lord Mayor, officer of the national or regional organization of a political party in the two years preceding the election may not be elected to be the Chairman of the company limited by shares.

(2) Based on the application, the Chairman of the company limited by shares shall be elected by the board of trustees by secret ballot for a term of four years. The application shall contain the detailed plans and concepts of the applicant concerning the information providing and cultural broadcast policies and business policy of the company limited by shares, and other issues defined by the presidium.

(3) The presidium shall invite applications one hundred and twenty days prior to the expiry of the mandate of the Chairman of the company limited by shares, or, in the case of the termination of the mandate of the Chairman for any other reason, fifteen days following termination, at the latest.

(4) The board of trustees may extend the mandate of the chairman of the company limited by shares on one occasion, without inviting applications, for a further term of four years reckoned from the expiry of the mandate.

#### *Section 70*

(1) During the term of his mandate, the chairman of the company limited by shares may not be  
a) MP,

- b)* member of a party,
- c)* member or Chairman of the board of trustees or the Body,
- d)* a member with a share of ownership in an economic association, or the senior officer or supervisory board member of an economic association which is in business contact with any of the companies limited by shares,
- e)* a member with a share of ownership in another economic association engaged in broadcasting or publishing,
- f)* a member with a share of ownership in an economic association, or the senior officer or supervisory board member of an economic association in which the Hungarian State has a majority share.

(2) During the term of his mandate, the chairman of the company limited by shares may not pursue any gainful activity other than scientific, educational, literary, artistic and other activities under copyright protection, is not entitled to any fees from the company limited by shares under his direction even on these legal grounds, and is obliged to offer the royalty due to him from the company limited by shares under his direction for charitable purposes.

(3) The Chairman of the company limited by shares may not pursue any party political activities, and may not make party political statements.

(4) The Chairman of the company limited by shares shall, prior to the commencement of his activity, make a written statement whereby no conflict of interests prevails in respect of him.

(5) The Chairman of the company limited by shares may not be a senior officer in an economic association with a majority state share in the two years following the expiry of his mandate.

#### *Section 71*

The Chairman of the company limited by shares shall direct the company limited by shares in accordance with this Act, other legal rules, the deed of foundation, the resolutions of the board of trustees (presidium) and the rules of public service broadcasting.

Within the framework of the above, he shall

- a)* decide upon the order of broadcasting,
- b)* establish the organizational and operational rules,
- c)* submit the rules of public service broadcasting, and provide for the execution thereof,
- d)* submit the rules concerning the order of transferring documents to the archives, and provide for the execution thereof,
- e)* define and present for approval the annual financial management plan, and provide for the execution thereof,
- f)* prepare the balance sheet and the profit and loss account, and submit them to the board of trustees for approval,
- g)* submit the proposals concerning the authorization of contracts [Section 66, subsection (2), paragraph dc)],
- h)* submit the proposals requiring authorization for negotiation, or prior approval [Section 66, subsection (2), paragraphs da) and db)],
- i)* exercise the employer's rights in respect of the employees of the company limited by shares, including the employment of the Deputy Chairman (Deputy Chairmen),
- j)* provide for the preparation of all further proposals which are prescribed by this Act and the deed of foundation or the resolution of the board of trustees,

k) exercise all the rights, with regard to the differences defined in this Act, which are delegated by the Act on Economic Associations to the competence of the board of directors of the company limited by shares.

#### *Section 72*

The Chairman of the company limited by shares may not receive remuneration on any legal grounds from the owner of the company limited by shares.

### **Supervisory Board of the Company Limited by Shares**

#### *Section 73*

(1) The management of the company limited by shares shall be controlled by the Supervisory Board. It is entitled to request reports or information of the Chairman and the employees of the company, to inspect the books, bank accounts, documents and cash desk of the company at any time, or to have the same inspected by an expert at the expense of the company.

(2) The Supervisory Board shall be composed of three members. Its members, with the exception of the member elected by the employees, shall be elected by the board of trustees for a term of four years. In the case of partial changes in the members of the Supervisory Board or the addition of new members to the Supervisory Board, the mandate of the new member(s) shall extend to the date of the original mandate of the Supervisory Board.

(3) The Supervisory Board shall elect a Chairman from among its members at its first meeting.

(4) The Supervisory Board shall establish the rules of its operation itself, and its by-laws shall be approved by the presidium of the board of trustees.

(5) The Supervisory Board has a quorum if at least two members are present at the meeting.

(6) The Supervisory Board shall inspect all reports to be presented to the board of trustees (presidium) which relate to the matters of a pecuniary nature of the board of trustees or the presidium falling within the competence of the general meeting of the company limited by shares.

(7) The internal control organization of the company limited by shares shall be under the direction of the Supervisory Board.

(8) In other respects the provisions of AEA and the deed of foundation shall apply to the organization and operation of the Supervisory Board.

### **Auditor of the Company Limited by Shares**

#### *Section 74*

(1) The auditor of the company limited by shares shall be elected by the board of trustees for a term of four years.

(2) The responsibilities, rights and competence of the auditor shall be defined in the deed of foundation in accordance with AEA.

### **Financial Management of the Company Limited by Shares**

#### *Section 75*

(1) The State shall provide subsidies as appropriate for the broadcasting-related expenditures of the joint stock companies as allocated in the "Parliament" Chapter of the Central Budget.

(2)

(3)

(4) The state may grant budgetary subsidies to the Magyar Rádió Company Limited by Shares, through the public foundation, in the Chapter entitled "Parliament" of the central budget, on the grounds of subsidizing art groups.

(5) In the interest of promoting its main activity, the company limited by shares may pursue entrepreneurial activities. It may use its profit only for the maintenance and development of public service broadcasting and for the development of its enterprises.

(6) The company limited by shares may not have shares in another broadcaster.

(7) The works of art due to the Hungarian Radio, the Hungarian Television and Duna Television, created prior to the coming into force of this Act and serving as the basis for copyright entitlements, may be used by the public service broadcasters, without infringing the possessor's broadcast plan, mutually and free of charge, only in their own broadcasts. This provision shall not apply to the application of copyright laws, with the exception of associated legal entitlements of the Hungarian Radio, Hungarian Television and Duna Television.

#### *Section 76*

(1) The Chairman and Deputy Chairman of the company limited by shares and the employees not exempted from this restriction in the organizational and operational rules may not conclude a contract on behalf of the company limited by shares to which the other party is himself, his close relative as defined in Section 685, paragraph *b*) of the Hungarian Civil Code, or a company in which he himself or his close relative as defined in Section 685, paragraph *b*) of the Civil Code has an indirect or direct share of ownership, other rights representing money or monies' worth or personal interests. If another employee of the company limited by shares concludes the contract falling within the sphere of interests of those concerned by the restriction, the contract shall be sent to the Supervisory Board of the company limited by shares without delay.

(2) A separate record shall be kept of the contracts of the company limited by shares in excess of the contractual value of five hundred thousand forints. The details necessary for the official company identification of the contracting party shall be kept up-to-date in the record, as well as the services and consideration to be provided by the contracting parties. The contracts concluded with the same contracting party in the same calendar year shall be added up.

## **CHAPTER V**

### **SYSTEM OF THE SUBSIDIZATION OF BROADCASTING**

#### ***Title 1***

#### **Broadcasting Fund**

##### *Section 77*

(1) The Broadcasting Fund (hereinafter "Fund") is a segregated monetary fund, the responsibility of which is to support public service broadcasting, public broadcasters, non-profit-oriented broadcasters, public service broadcasts and programmes, to preserve and further develop culture, to provide for the multicoloured nature of broadcasts, and to support the other responsibilities defined in this Act.

(2) The assets of the Fund can only be used for the purposes defined in this Act.

(3) The sources of the Fund: broadcasting fees, tender and application fees, penalty and compensation payable in the event of the breach of the broadcasting contract, fines, maintenance of operation fees, and the budgetary contributions payable by the state on these grounds in the form of a flat-rate contribution and supplementary contributions, as well as voluntary payments.

(4) Voluntary payments made to the Fund shall qualify as obligations assumed in the interest of the public.

(5) The manager of the Fund is the Board. The Fund is a legal entity, and its account is managed by the Hungarian State Treasury.

(6) The annual budget of the Fund shall be approved by the Parliament, as an appendix to the separate law set forth in Subsection (1) of Section 32.

(7) The detailed rules of the management of the Fund shall be defined by the Board, in agreement with the Minister of Finance, and shall be published in the Education Gazette (Művelődési Közlöny).

#### *Section 78*

(1) At least half percent and at most one percent of the annual revenues of the Fund shall be used for the repayable or non-repayable subsidization of each of the non-profit-oriented broadcasters and public broadcasters. The subsidies may be paid for a set period of the continuous activity of the broadcaster.

(2) At least fifty percent of the amount of the broadcasting fees paid by broadcasters to the Fund shall be used for the repayable or non-repayable subsidization of the making by the broadcasters of Hungarian-made public service programmes, with special regard to the rules relating to film-making.

(3) Public service broadcasters may receive subsidies up to one third of the amount to be distributed on the basis of subsection (2), at the most.

(4) The subsidization of public service programmes and broadcasts, non-profit-oriented broadcasters and public broadcasters shall be provided for through public tenders. The tenders shall be invited by the Board, and the bids received shall be assessed by the assessment committee convened by the Board on a case-to-case basis.

(5) The members of the assessment committee shall be selected by the Board from among well-respected persons, applying the rules of conflicts of interests applicable to the members of the Board. The members of the assessment committee may not be civil servants. The representation of those obliged to pay the broadcasting fee, non-profit-oriented broadcasters and the professional organizations of interest representation of public broadcasters in the assessment committee shall be provided for.

(6) The Board shall publish its decision.

(7) In respect of the broadcasting of programs described in Subsection (1) of Section 117, the manager of the Fund shall pay the remuneration due pursuant to copyright laws from the Fund, instead of the operator.

## ***Title 2***

### **Maintenance of Operation Fee**

#### *Section 79*

(1) A maintenance of operation fee shall be paid by the parties who operate apparatuses suitable for the reception of television programmes (hereinafter "television set"). Unless this Act provides otherwise, the maintenance of operation fee shall be payable per television set.

(2) The amount of the maintenance of operation fee shall be established annually in the Act on the Central Budget.

(3) The maintenance of operation fee shall be established with regard to the competitive and economical operation of public service broadcasters, the maintenance of the broadcasting system, and the subsidization needs of public service programmes.

(4) If the television set for which maintenance of operation fees must be paid is owned and used by more than one private individuals, such persons shall agree in writing as to the payment of the fee. In such cases, the party indicated as the obligor in the agreement shall assume the reporting, declaration and payment obligations. Such agreement shall also be indicated in the tax return. If no agreement is reached, the parties involved shall assume joint and several liability for the fulfillment of the obligation.

#### *Section 80*

(1) No maintenance of operation fee is payable

*a)* for the second and every further television set operated by a private individual and the persons living in the same household with him,

*b)* for the second and every further television set used by institutions of health care and children's institutions, the armed forces, law and order protection organizations, sanatoria, kindergartens, educational and public cultural institutions, public collections, student hostels (halls of residence) and social institutions providing personal care, when used in the same building or building group,

*c)* for rented television sets,

*d)* for television sets received for testing for a maximum period of fifteen days,

*e)* for television sets used by the operators of broadcasting, broadcast transfer, broadcast distribution and broadcast diffusion systems, the Board or the Telecommunications Supervision for industrial, reception observation and controlling purposes, on the premises of a permanent establishment, or in a place of observation of reception and in a car,

*f)* for television sets operated by a foreign citizen staying in the territory of the country for a maximum period of thirty days,

*g)* for television sets operated by diplomatic representations, consular representations and international organizations, the members thereof, the non-Hungarian employees thereof and the family members of the latter, and by other organizations and persons entitled to exemption from the payment of the fee on the basis of an international convention,

*h)* for television sets operated in a closed circuit television system as monitors.

(2) Those who

*a)* are engaged in the distribution and presentation of television sets shall pay the maintenance of operation fee for one television set per sales outlet,

*b)* are engaged in the renting of television sets, as well as the legal entities and unincorporated economic associations not falling under the effect of subsection (1), paragraphs *b)*, *d)*, *g)* and *h)*, shall pay the maintenance of operation fee for all the television sets falling within their sphere of activity.

(3) Treble the maintenance of operation fee shall be paid for television sets operated in catering industry (hotel industry) units, other commercial units, with regard to the exception defined in subsection (2), paragraph *a)*, or on public premises.

#### *Section 81*

(1) The following shall be exempt from the payment of the maintenance of operation fee:

*a)* persons over the age of seventy years living on their own,

*b)* a married couple or common-law partners living in an independent household if one of them is over the age of seventy years and the other is over the age of sixty years,

c) persons over the age of sixty years who support close relatives [Section 685, paragraph b) of the Hungarian Civil Code] with no independent pension, earning or other income,

d) disabled ex-servicemen and war widows,

e) those seriously visually or hearing handicapped, and disabled persons falling in groups 1 and II.

(2) In the annual Act on the Central Budget, a maintenance of operation fee defined in the form of a flat-rate fee shall be set aside in respect of those defined in subsection (1), and the fee shall be transferred to the Fund monthly, time-proportionally.

(3) Those entitled to exemption shall be exempt from the obligation of payment as of the first day of the month following verification of the exemption. Exemption need not be verified by the persons who had already verified it prior to the coming into force of this Act.

#### *Section 82*

(1) The obligation of the payment of the fee shall be incurred on the first day of the month following the commencement of the operation of the television set, and shall continue to prevail until the last day of the month of the termination of operation.

(2) If the party obliged to pay the fee fails to meet the obligation of payment, he shall pay a penalty corresponding to the amount of the fee in addition to the fee failed to be paid.

#### *Section 82/A*

(1) For the purposes Subsection (1) of Section 3 of Act XCI of 1990 on the Rules of Taxation (hereinafter referred to as the "Tax Act") the maintenance of operation fee shall be regarded as a form of tax, stipulating that the tax regulatory tasks in connection with this obligation, not including on site inspections and the consequent tax regulatory proceedings, shall be performed by the agency contracted to collect the maintenance of operation fees (hereinafter referred to as "Collection Agency").

(2) The Collection Agency shall keep records on the parties required to pay maintenance of operation fees on basis of the data reported or disclosed, or obtained by inspection.

(3) For the purposes of Subsection (3) of Section 57 of the Tax Act, the inspection of operating a television set in a private residence shall fall under the same scope as the inspection of a residence, as a property asset. The tax authority shall not be entitled to enter the residence of a private person for the purpose of inspection related to the payment obligation of maintenance of operation fee, if, prior to the inspection, the person obliged to pay the fee

a) provides adequate proof of having fulfilled his reporting obligation, or

b) acknowledges his failure to report his payment obligation.

(4) The tax authorities of local governments shall be entitled to perform on-site inspections, if requested by the Collection Agency or without such request, regarding the private individuals, legal persons or other organizations within the relevant area of competence which are not included in the list of the parties subject to payment of the maintenance of operation fee and of the places of operation reported by the Collection Agency to the local government tax authority by 1 October of each calendar year within the area of competence.

(5) The local government tax authority, if revealing the taxpayer's failure to report the occurrence of his maintenance of operation fee payment obligation during the on-site inspection, shall impose a fine payable to the settlement's local government.

(6) The fine shall be twice the amount of the unpaid fees, or the total amount of no more than 30 months' fees.

(7) In respect of the cases described in Subsection (5), no tax fine, default penalty or the penalty described in Subsection (2) of Section 82 of the Media Act may be imposed for the period

effected by the failure of reporting. The tax authority shall forward a copy of the state administration resolution on the discovered fee evasion and the imposed penalty to the Collection Agency.

(8) All data obtained by the Collection Agency in the course of collection if the maintenance of operation fee shall be handled as confidential tax information. In respect of using such data and of providing information to other organs, the provisions of Section 47 of the Tax Act shall be observed.

(9) Network broadcasting companies and AM micro broadcasting companies shall disclose data to the Collection Agency quarterly, by the 15th of the month following the quarter on the names and addresses (registered offices and premises) of the subscribers on record.

(10) The party subject to pay the fee

*a)* regarding private individuals, shall state in his/her personal income tax return for the tax year or in the statement given to his/her employer granting authority for tax assessment whether he/she has a television set and if it falls under the maintenance of operation fee payment obligation,

*b)* regarding legal persons and other organizations, shall state in the final annual tax return described in Subsection (5) of Section 20 of the Tax Act as to the number of television sets, and the pertaining degree of maintenance of operation fee payment obligation, it operates,

*c)* private individuals, legal persons and other organizations not falling under tax liability shall fulfill the obligation described in Paragraphs *a)* and *b)* to the Collection Agency.

(11) The state tax authority shall process the data for the tax returns regarding maintenance of operation fee payment obligations separately, and shall deliver the results electronically or by magnetic data media to the Collection Agency. The Collection Agency shall compare such data against its own records on parties subject to fee payment obligation and shall collect fees from the subscribers which were not previously included in the records.

(12) The trustee of the Fund shall be entitled to receive the information described in Subsection (3) of Section 47 of the Tax Act, stipulating the right of trustees of appropriated state funds to such information, in respect of the sum of collected fees and of the fulfillment of fee payment obligations, and shall be entitled to monitor the work of the Collection Agency.

(13) The declaration obligation described in Subsection (10) shall be first applied in the tax return for 1997 regarding the fee payment obligation due as of 1 January 1998, and the provisions of Subsection (6) shall be applied in respect of the declaration and reporting obligations established after 1 January 1998.

(14) In connection with the collection of maintenance of operation fees, regarding the matters not regulated in this Act, the provisions of the Tax Act shall be observed.

### *Section 83*

Those obliged to pay the fee shall report

*a)* the operation of the television set, and termination of such operation,

*b)* the activity defined in Section 80, subsection (2), paragraph b) and subsection (3), as well as the number of

television sets, any increase therein, and the rate of the fee, within eight days of the commencement of the obligation of payment, to the organization responsible for the collection of the fee.

### *Section 84*

(1)

(2) Forty percent of the maintenance of operation fees received by the Fund on all legal grounds, following the deduction of the collection costs, shall be due to the Hungarian Television

Corporation, twenty-eight percent shall be due to the Hungarian Radio Corporation and twenty-four percent to Duna Television Corporation, by payment through the owner public foundation, one percent shall serve to cover the operating expenses of the Board, one percent, divided equally, shall serve to cover the operating expenses of the Hungarian Radio Public Foundation, the Hungarian Public Television Foundation and Hungária Public Television Foundation, while six percent shall serve the purposes of the tenders to be invited in respect of the sponsoring of public service programs.

(3) Parliament may, to the debit of the Fund, complement the budget of the Board by up to four percent of the maintenance of operation fees received by the Fund on all legal grounds, and the budgets of the boards of trustees by up to three percent. The boards of trustees may present their joint proposal to that effect to the committee of Parliament competent in budgetary matters.

## **CHAPTER VI**

### **BROADCASTING RIGHTS**

#### ***Title 1***

#### **General Provisions**

##### ***Section 85***

(1) Natural persons residing in Hungary, legal entities or unincorporated economic associations registered in the Republic of Hungary are entitled to effect broadcasting in Hungary.

(2) The shares of broadcasters operating in the form of a company limited by shares may only be registered shares.

(3) Television broadcasters with a national or regional area of reception and radio broadcasters with a national area of reception may operate as share companies, or in the form of non-profit companies owned solely by local and regional governments, or (and) the self-governments of national and ethnic minorities.

##### ***Section 86***

(1) Enterprises and public service broadcasters authorized by the Board in the procedure defined by law may operate as broadcasters or network broadcasters.

(2) The following may not be persons entitled to broadcast:

*a)* President of the Republic, Prime Minister, MPs, members of the Government, state secretaries, parliamentary ombudsman of citizens' rights, constitutional judges,

*b)* mayors, the Lord Mayor, chairmen of the county general assemblies, the deputies thereof, notaries and chief notaries,

*c)* judges and public prosecutors,

*d)* employees, national or regional officers of parties,

*e)* members of the supervisory boards and boards of trustees of public service broadcasters,

*f)* Chairmen and Deputy Chairmen of public service broadcasters, and those in a work-related contractual relationship with public service broadcasters,

*g)* members of the Board, and those in a work-related contractual relationship with the Board,

*h)* senior officers of public administration organizations, the National Bank of Hungary, the Economic Competition Office, the Hungarian Privatization and Property Managing Company Limited by Shares and the State Audit Office, official auditors, members of the Economic Competition Council,

*i)* those in a work-related contractual relationship with the Telecommunications Supervision.

(3) The following may not be organizations entitled to broadcast:

- a) parties and the economic associations established by them,
- b) state and public administration organizations, except if, in the cases regulated in Sections 19/D. and 19/E. of the Constitution, the Act passed for the execution thereof provides otherwise,
- c) the economic associations in which the Hungarian State has a controlling share,
- d) the economic associations in which any of those listed in subsection (2) has a direct or indirect share of ownership, or has acquired the right to influence their decisions on the basis of a separate agreement or in any other way, or persons and organizations otherwise subject to any restriction on the acquisition of property.

(4) Those providing telecommunications services in the area of reception of the planned broadcasting may not acquire broadcasting rights until December 31, 2002, except

- a) if they received the licence for providing telecommunications services after the conclusion of the broadcasting contract for the purpose of transmitting their own programmes through broadcast diffusion,
- b) for the broadcast transferors who do not provide other telecommunications services.

(5) Those entitled to broadcast on the basis of a contract or reporting may simultaneously be entitled to perform, at the most,

- a) one national broadcasting service, or
- b) two regional and four local broadcasting services, or
- c) twelve local broadcasting services.

(6) The restriction defined in subsection (5) shall not apply to specialized broadcasting, however, the advertising time authorized in Section 16, subsections (1)-(3) may only be taken into account with an 0.3 index number in respect of the broadcasting in excess of the rate defined in subsection (5).

#### *Section 87*

An economic association, in the board of directors of which, among the managers of which, or in the supervisory board of which, or a foundation, in the board of trustees of which, members or employees of the local representative body, the mayor or the Lord Mayor, or the close relatives thereof as defined in Section 685, paragraph *b)* of the Hungarian Civil Code, take part may not be entitled to broadcast to an area of reception, at least twenty percent of which covers the area of the local government.

#### *Section 88*

Only network broadcasters are entitled to provide network broadcasting. The provisions relating to broadcasting shall apply to network broadcasting.

#### *Section 89*

(1) The broadcaster shall preserve the authentic documentation relating to its programme, including the full record of the output signal of the full broadcast, for a period of thirty days following transmission, while national and regional broadcasters shall preserve it for a period of sixty days, and shall, on request, deliver the same to the Board free of charge, without delay. In the case of legal proceedings being instituted or legal disputes in connection with the broadcasting, the documentation shall be preserved for a period of one year following the non-appealable conclusion of the proceedings.

(2) Based upon law or a contractual obligation, the broadcaster is obliged to effect self-check, measuring, provide data and store data.

(3) Unless a legal rule provides otherwise, the costs of self-check shall be covered by the party obliged to effect self-check.

(4) The broadcaster shall supply the following data for the Board as is defined by the Board, in particular for the control of

a) advertising restrictions and prohibitions, rules relating to programme sponsoring, contractual programme making and to public service broadcasting,

b) obligations assumed in the broadcasting contract,

c) compliance with the obligations of public broadcasters;

d) for establishing the inter-connections indicated in Chapter VIII of the Act.

## ***Title 2***

### **Basic Contents of the Broadcasting Contract**

#### ***Section 90***

(1) The broadcasting contract shall be concluded between the Board and the broadcaster selected in the tender proceedings. A broadcasting contract shall be concluded in the case of broadcasting realized through surface system broadcast diffusion and broadcasting performed with the aid of a satellite disposed over (rented) by the Government or radio telecommunications device.

(2) The broadcaster is entitled and obliged to broadcast for the length of time and during the broadcasting hours agreed to in its bid, in accordance with the broadcasting time schedule, using its own distinctive identifying signal, programmes in line with the programme structure undertaken, on its own network and with its own equipment and devices operated by it, or with the participation of a telecommunications service provider (broadcast diffuser). In respect of the broadcast diffusion and broadcast distribution activities with own devices no telecommunications service providing licence needs to be obtained, but the other licences defined in separate legal rules shall be obtained.

(3) The beneficiary shall pay a broadcasting fee as a consideration, quarterly, in advance. When being awarded the right of broadcasting, the fee shall be paid for six months, in advance. In the case of delay in the payment of the fee, the Board may terminate the contract with fifteen days' notice.

(4) The violation of the provisions contained in subsection (3) shall qualify as a serious violation of the law.

(5) The penalty that may be stipulated on the grounds of the violation of the contract may, on a case-to-case basis, not exceed fifty percent of the annual broadcasting fee.

(6) A non-profit-oriented broadcaster is not obliged to pay a broadcasting fee. Compliance with the conditions of being non-profit-oriented shall be established by the Board. The broadcaster shall give an account of having satisfied the conditions at the end of every year, at the time set by the Board.

## ***Title 3***

### **General Tender Conditions**

#### ***Section 91***

(1) The Board shall publish the general tender conditions relating to the contents and the assessment of the broadcasting contracts in at least two national daily newspapers. The general tender conditions shall be defined in a way that provides for the prevalence of the freedom and

multicoloured nature of the provision of information and culture, and the preservation and enrichment of the universal and national culture.

(2) The following shall be defined in the general tender conditions in particular:

- a)* the material conditions of broadcasting,
- b)* considerations for the evaluation of the material conditions,
- c)* the consequences of the violation of the contract, in particular, the penalty, and the conditions of the suspension of broadcasting for a maximum period of thirty days,
- d)* the conditions relating to the generation, keeping, making accessible and communication of the information necessary for the establishment of the performance of the obligations of the broadcaster.

(3) In respect of the material conditions defined in subsection (2), paragraph *a)*, the following shall be prescribed in particular:

- a)* business plan,
- b)* a bank certificate whereby the operational costs of the broadcaster are covered for at least the first three months of operation, without any advertising revenues, and are available for the broadcaster on a segregated bank account,
- c)* description of the technical conditions,
- d)* presentation of the main characteristic features of the broadcast plan and the broadcast, elaborating upon any information providing broadcasts and public service broadcast, in particular, the news providing broadcasts, and, in the case of national and regional televisions, a description of the concepts relating to the showing of Hungarian-made motion pictures, and time ratios of the above,
- e)* offer relating to the planned broadcasting time.

(4) That bidder satisfies the material conditions who verifies or renders probable the meeting of the conditions.

#### *Section 92*

(1) Among the general tender conditions, a distinction may be made between the conditions relating to the local, regional and national or satellite broadcasting.

(2) The general tender conditions may define the extent of the exercise of the voting rights due to the owner in a broadcasting company in which a local or regional government has a direct or indirect share of ownership, as well as the conditions of the appointment (application) of the head of such a broadcaster.

### **Draft of the General Tender Conditions and the Public Hearing**

#### *Section 93*

The Board shall draw up a draft of the general tender conditions, and shall publish the full text, together with the explanation, in the Education Gazette (Művelődési Közlöny). Anybody may make comments in writing, addressed to the Board, upon the general tender conditions within fifteen days of publication.

#### *Section 94*

(1) At least twenty days after and at most within thirty days of the publication of the draft of the general tender conditions, the Board shall hold a public hearing (hereinafter "hearing"). The representative of the Telecommunications Supervisory Board shall also attend the hearing.

- (2) An announcement concerning the place and date of the hearing shall be published in the Education Gazette (Mûvelödési Közlöny) and in two national daily newspapers at least ten days prior to the hearing.
- (3) At the hearing, all the interested parties shall be given an opportunity to state their cases, and the representative of the Board and the Telecommunications Supervisory Board shall be enabled to answer the questions raised by such interested parties.
- (4) The hearing shall be conducted by the representative of the Board, and he shall decide that the hearing can be held in the case of the meeting of the conditions prescribed in the Act.
- (5) The head of the hearing shall define the final agenda after hearing those present and with regard to the agenda announced in advance, if any.
- (6) At the hearing anybody may ask questions relating to the subject of the proceedings, and may voice his opinion on the issues relating to the subject.
- (7) Those present may also ask one another questions through the head of the hearing.
- (8) Minutes shall be drawn up of the hearing within eight days, which shall be available for inspection in the office of the Board.
- (9) Following the hearing, the Board shall decide on the finalization of the general tender conditions. Its decision shall be published in the Education Gazette (Mûvelödési Közlöny) within thirty days of the hearing.

#### ***Title 4***

#### **Invitation to Tender**

##### *Section 95*

- (1) The provisions defined in Sections 93-94 shall duly apply to the draft and publication of the invitation to tender and to the public hearing.
- (2) The invitation to tender shall contain the details listed in Section 52, subsection (4) relating to the broadcasting possibilities, the obligatory contents of the bids, and the considerations for the evaluation of the details defined in Section 96, subsection (1), paragraphs *e*), *f*), *g*) and *i*) of the Act in numerical terms.
- (3) The conditions of the invitation to tender may differ from the general tender conditions only if the law or the general tender conditions allow such difference. The general tender conditions shall form part of the invitation to tender.
- (4) The tender shall be invited in such a way that
  - a*) in respect of the submission of bids relating to national broadcasting, at least sixty days,
  - b*) in respect of the submission of bids relating to regional broadcasting, at least forty days,
  - c*) in respect of the submission of bids relating to local broadcasting, at least thirty daysbe available.
- (5) The Board may stipulate a set ratio of public service programmes or the serving to a set extent of the needs of national and ethnic and other minorities as a tender condition if the freedom of the provision and obtaining of information and the multicoloured nature of culture do not prevail in the given reception area, with regard to the whole of the broadcasting. The Board shall authorize a non-profit company owned exclusively by the self-government of national and ethnic minorities, as a non-profit-oriented broadcaster, to broadcast in the interest of enforcing the rights of the national and ethnic minorities as defined in another Act in at least four and at most eight hours of broadcasting per week, without inviting a tender, if the needs of the national and ethnic

minorities in respect of the provision of information in their mother tongue cannot be satisfied otherwise in the area of reception defined in the invitation to tender.

(6) The Board may stipulate as a condition in the invitation to tender that the broadcaster provide news on a regular basis, beyond the extent defined in Section 8, subsection (3).

(7) The minimum rate of the broadcasting fee below which the broadcasting rights cannot be awarded to any party, other than a non-profit-oriented broadcaster, shall be defined in the invitation to tender.

(8) The invitation to tender may offer a fifty percent exemption from the payment of the broadcasting fee for a maximum period of two years. The exemption shall not affect the obligation concerning the cover defined in Section 91, subsection (3), paragraph *b*).

(9) Bidders responding to the invitation to tender shall pay a tender fee. The tender fee is five percent of the minimum published annual broadcasting fee. Eighty percent of the tender fee shall be included in the broadcasting fee, while in the case of a refused bid, eighty percent of the tender fee shall be refunded within thirty days of the refusal.

(10) The invitation to tender shall contain the date by which broadcasting shall be commenced. If the service is not commenced by the deadline for reasons imputable to the beneficiary, the right shall terminate.

## **Contents of Bids**

### *Section 96*

(1) A bid shall contain:

*a*) details of the bidder:

- name,
- address (head office or permanent establishment),
- court of company registration or court registration number,

*b*) name and address of the person with a clean criminal record who will bear personal responsibility, as required by the press law and this Act, for the activities of the broadcaster,

*c*) if the bidder is an economic association, its contract of association or deed of foundation, together with any amendments thereto,

*d*) statement of the bidder concerning the size of its direct or indirect share of ownership in economic associations publishing Hungarian daily newspapers or weeklies, distributing newspapers, performing broadcasting in Hungary or applying for broadcasting rights in Hungary,

*e*) basic details of the planned broadcasting:

- type (radio, television),
- area of reception,
- the broadcast diffusion opportunity intended to be taken advantage of,
- broadcasting hours of the service, schedule of broadcasting hours,
- planned additional and value added broadcasting services,
- permanent name, emblem and signal of broadcasting,

*f*) the planned programme structure, the average monthly broadcasting hours intended for the broadcasting of public service programmes, the broadcasting hours intended for the regular daily broadcasting of news, the monthly average broadcasting hours planned to serve the needs of the national and ethnic or other minorities,

*g*) other details indicated in the invitation to tender, including the offer relating to the amount of the broadcasting fee,

*h)* in the case of satellite broadcasting, the declaration of intent of the supplier of the satellite capacity intended to be used by the bidder concerning the renting of the channel, containing also the frequency, technical conditions and fee thereof,

*i)* the business and financial plans of the broadcaster, and the certificate issued by a bank verifying the availability of the amount defined in Section 91, subsection (3), paragraph *b*).

(2) The bid of an economic association shall contain details concerning the size of the direct or indirect share held by the parties holding shares of ownership in the economic association in any other economic association publishing Hungarian daily newspapers or weeklies, or distributing newspapers, performing broadcasting in Hungary, or applying for broadcasting rights in Hungary.

(3) The bidder shall make a statement whereby there are no disqualifying factors as defined by law in connection with him, and in the case of the acceptance of another pending bid of his no such excluding factor would arise.

(4) The Board may not disclose information on the details contained in the bid to third parties until the conclusion of the

contract. Following the conclusion of the contract, the details defined in subsection (1), with the exception of those defined in paragraph *d*), shall be public.

#### *Section 97*

In the case of the bids defined in Section 102, subsection (1), paragraph *a*), the Board shall, within fifteen days of the expiry of the deadline for the submission of bids, publish the names and addresses of the bidders, the nature and area of reception of the planned broadcasting, and other details thereof, in the Education Gazette (Művelődési Közlöny).

### **Assessment of Bids**

#### *Section 98*

In the case of a national broadcaster, the Board shall consider the following within ninety days of the expiry of the deadline for the submission of bids, while in other cases, within sixty days:

*a)* whether the bidder falls under the effect of the restrictive provisions contained in Sections 85-88 or Chapter VIII,

*b)* whether the bid complies with the substantive and formal requirements defined in the invitation to tender,

*c)* whether it complies with the material and personnel conditions defined in the Act or in the tender conditions established on the basis of the Act.

#### *Section 99*

(1) If the bidder infringes a restrictive provisions, the Board shall refuse the bid in a statement of justification within the time limit defined in Section 98, indicating the reason for refusal therein.

(2) If none of the bids satisfies the tender conditions defined in Section 95, subsection (5), the Board is entitled to assess the bids as if the tender conditions in question had not been announced.

(3) If a bid does not satisfy the requirements defined in Section 95, the Board shall return it for providing the missing information or for correction. Any missing information shall be provided within fifteen days. In the case of failure to keep the deadline resulting in the forfeiture of rights, the Board shall refuse the bid.

(4) A bid shall be refused if simultaneously with the submission of the bid the tender fee was not paid by the party obliged thereto.

(5) The refusal of a bid as defined in subsection (1) may be contested in court. If the action is justified, the court may oblige the Board to provide compensation. The starting of a legal action shall not prevent the continuation of the tender procedure.

#### *Section 100*

(1) The Board may conclude a contract with the awarded bidder of the tender. In the case of a tender relating to local broadcasting, if a single bidder satisfies the legal or tender requirements, the Board shall conclude the broadcasting contract.

(2) If, according to the bid, the daily broadcasting time is less than eight hours, the Board shall invite a tender in respect of the remaining broadcasting time.

(3) If, according to the bid, the daily broadcasting time exceeds eight hours, the Board may invite a tender in respect of the remaining broadcasting time with the consent of the beneficiary.

(4) The Board shall conclude the contract following the procedure defined in Section 101 if the broadcasting needs defined in the competing bids cannot be satisfied simultaneously in the manner indicated in the tender.

#### *Section 101*

(1) If the selection is to be made from among competing bids, the Board may, within the time limit defined in Section 98, invite the competing bidders to come to an agreement on the time division of the broadcasting opportunities bidden for within fifteen days of being invited to do so.

(2) In the absence of an agreement, the Board shall choose the winning bid from among the competing bids in accordance with the principles of assessment published at the time of the invitation of the tender.

(3) If, among the competing bidders, a non-profit-oriented broadcaster, too, submitted a bid, with the exception of national broadcasting, the rights shall be acquired by the non-profit-oriented broadcaster, if at least two profit-oriented local broadcasting services are already available for eighty percent of the inhabitants of the given area of reception, and at least one of these is realized through broadcast diffusion.

### **Conclusion of the Broadcasting Contract**

#### *Section 102*

(1) A broadcasting contract may be concluded:

*a)* through selection from bids submitted in response to an invitation to tender, or

*b)* in respect of a broadcasting opportunity created as a result of planning conducted by the applicant and approved by the Board on the basis of the controlling inspection conducted by the Telecommunications Supervisory Board, as defined in this Act.

(2) The invitation to tender defined in subsection (1), paragraph *a)* shall relate to the broadcasting opportunities worked out by the Telecommunications Supervisory Board and published in advance in the Education Gazette (Művelődési Közlöny), and defined by the area of reception, frequency band and other technical characteristics.

(3) The Telecommunications Supervisory Board shall provide data for the planning defined in subsection (1), paragraph *b)*, in return for the reimbursement of expenses.

(4) Based on subsection (1), paragraph *a)*, bids may be submitted

*a)* by the deadline defined in the public invitation to tender published by the Board, and

*b)* at any time in respect of the broadcasting opportunities remaining after the assessment of the applications received in response to the public invitation to tender defined in paragraph *a)*.

(5) The Board shall invite a tender in respect of the broadcasting opportunities created in accordance with the provisions defined in subsection (1), paragraph *b*). In the course of the assessment of the bids, the broadcasting contract shall be concluded with the original applicant otherwise satisfying the legal conditions if such an applicant undertook to pay the highest amount of broadcasting fee offered in the bids.

(6) The original applicant defined in subsection (1), paragraph *b*) may claim the reimbursement of its justified expenses incurred in connection with the provision of data and planning from the awarded bidder.

## ***Title 5***

### **Frequency Assignment**

#### ***Section 103***

(1) The frequency serving the purpose of broadcast diffusion shall be assigned by the Telecommunications Supervisory Board to the party entitled to broadcasting or to the telecommunications service provider with which it concluded a contract.

(2) The frequency assignment procedure shall be conducted by the Telecommunications Supervisory Board in accordance with Act LXII of 1993 on Frequency Management (hereinafter "FMA").

(3) The frequency assignment resolution of the broadcast diffusion station shall contain:

*a*) the fee for the use of the frequency,

*b*) the technical conditions and regulations of the operation of the broadcast diffusion station.

(4) The appendix to the frequency assignment resolution of the broadcast diffusion stations shall contain:

*a*) number of the resolution of the Board, date of the adoption of the resolution,

*b*) the system of conditions identified by the Board and relating to broadcasting.

#### ***Section 104***

(1) The radio licence of the broadcast diffusion station shall contain:

*a*) the details defined in Section 103, subsection (3), paragraph *b*) and subsection (4),

*b*) the fee for the use of the frequency.

(2) The radio licence of the broadcast diffusion station shall be issued by the Telecommunications Supervisory Board for a term extending to the expiry of the validity of the broadcasting rights.

(3) The Telecommunications Supervisory Board shall check, ex officio, or at the request of the Board, the meeting of the conditions defined in the broadcasting contract and in the radio licence, and if it establishes an offence, it shall inform the Board of the finding of investigation.

(4) The verified costs of an investigation conducted at the request of the Board shall be reimbursed by the Board. If, according to the finding of an investigation conducted at such a request, the conditions contained in the broadcasting contract and in the radio licence have been violated, the costs of the investigation shall be repaid by the party who is responsible, in accordance with Section 339 of the Civil Code, for the violation of the conditions.

## ***Title 6***

### **Conditions of Operation**

#### ***Section 105***

(1) The beneficiary of broadcast diffusion shall send a copy of the radio licence to the Board within eight days of receiving the licence, and shall report the commencement of broadcast diffusion to the Board in writing eight days prior to the commencement thereof.

(2) The beneficiary of broadcast diffusion shall report any changes in the data supplied by him within eight days of the taking place of such changes. The Board shall refuse to accept such changes if they violate this Act.

#### *Section 106*

(1) The operator of the broadcast diffusion station shall, in cooperation with the broadcaster, broadcast identification signals or shall take care of the announcement of the identification information continuously or at set times repeated daily. If the station broadcasts the programmes of several broadcasters, the identification information or signal shall be distinguishable.

(2) The broadcast diffusion station may broadcast measuring signals, measuring designs, still images and monoscope for a maximum period of ten minutes before and after the commencement of the broadcast, and for a maximum period of two minutes during the broadcast.

(3) If there is a breakdown in transmission, in the case of the lack of a broadcast signal, the restriction defined in subsection (2) may not apply to the duration of no signal.

(4) During the operational hours of a television broadcast diffusion station, no sound or image transmission may be operated separately, or in a way that results in the broadcasting of different or unrelated broadcast materials, except

a) measuring or experimental transmission announced in advance,

b) the transmission of still images or monoscope, and

c) if, due to a fault in the equipment of the image or sound channel, the operational defect can only be announced through the sound or the image channel.

### ***Title 7***

#### **Term of Rights**

##### *Section 107*

(1) In the case of television, the broadcasting rights shall be valid for a maximum period of ten years, while in the case of the radio, for a maximum period of seven years, and on expiry, these terms may be extended at the broadcaster's request, without inviting a tender, for a period of five years on a single occasion. The application for renewal shall be reported to the Board fourteen months prior to expiry.

(2) In the absence of the reporting defined in subsection (1), or if no renewal is possible, the Board shall publish a public invitation to tender twelve months prior to the expiry of the rights.

(3) The rights cannot be renewed if the beneficiary violated the contract repeatedly or seriously.

(4) The rules relating to the establishment of the rights shall otherwise apply to the procedure aimed at the renewal of such rights.

### ***Title 8***

#### **Consent to Joining a Network**

##### *Section 108*

(1) If, in the case of the planned connection to a network, the area of reception of the intended network or the characteristic features of the programme differ from the broadcasting rights, a condition of joining the network is the amendment of the broadcasting contracts.

(2) The planned joining of a network shall be reported by those joining the network jointly to the Board. The announcement shall contain the name of the network broadcaster and the licence defined in Section 19, subsection (4), paragraphs *a*) and *b*) of Act LXXII of 1992 on Telecommunications (hereinafter "TA"). The licensing of the interconnection through the procedure of the telecommunications authority may only be refused in the case of the non-performance of the technical conditions.

(3) If the reporting party complies with the provisions contained in Section 98, the Board shall amend the broadcasting contracts, and shall simultaneously register the joining of the network and the network broadcaster. The broadcasting contract cannot be amended in respect of a regional and local broadcaster joining the network, the remaining own broadcasting of which does not reach four hours a day.

(4) The public broadcaster shall pay a broadcasting fee, unless it joins the network for the sole purpose of the broadcasting of its public service broadcasts. A non-profit-oriented broadcaster may join a network only with a non-profit-oriented broadcaster.

## ***Title 9***

### **Changes in the Ownership and Other Details of the Broadcaster**

#### ***Section 109***

(1) The broadcasting rights are not transferrable.

(2) The broadcaster shall report to the Board if there is any change in its ownership or other details, in particular:

*a*) any change in the name and head office (address) of the enterprise,

*b*) in the case of an economic association that is a legal entity or unincorporated economic association, any change in the share of ownership, any amendments made to the statutes, deed of foundation or articles of association.

(3) The broadcaster shall make a statement whereby the change in its ownership does not violate the provisions contained in Chapter VIII of the Act.

## ***Title 10***

### **Frequency Replacement**

#### ***Section 110***

If the broadcasting activity cannot be continued prior to the expiry of the term of validity of the rights because the radio licence is withdrawn, on the basis of Section 12, subsection (1) of FA for reasons not imputable to the beneficiary, and the Board is notified thereof, the Board shall offer the beneficiary another broadcasting rights under similar conditions without inviting a tender.

## ***Title 11***

### **Amendment of the Contract**

#### ***Section 111***

The Board may not refuse the amendment of the contract if the area of reception has extended due to an increase in the number of inhabitants reached by the broadcast transfer system, and as a result, a local broadcaster has turned into a regional broadcaster, or a regional broadcaster has

turned into a national broadcaster, provided that the broadcaster otherwise satisfies the requirements relating to the given new broadcaster and defined in this Act.

## ***Title 12***

### **Violation of the Law or the Contract**

#### *Section 112*

(1) If the broadcaster fails to meet or violates the conditions and regulations prescribed in this Act, the Act on Copyright, the broadcasting contract and the radio licence, or if the guilt of a person employed by, or being in another work-related contractual relationship with the broadcaster, at the time of the commission of the act, is established by a non-appealable sentence on the grounds of the crime defined in Section 329 of the Hungarian Criminal Code, the Board shall

- a)* call upon the broadcaster to terminate the injurious conduct,
- b)* establish the violation of the law in a written warning, and shall call upon the broadcaster to terminate the violation of the law, and to abstain from the violation of the law in future,
- c)* suspend the exercise of the broadcasting rights for a set period of time but for a maximum period of thirty days,
- d)* enforce the penalty defined in the contract,
- e)* impose a fine in the case of a public service broadcaster, or at the initiative of the Complaint Committee, between the limits defined in Section 135,
- f)* terminate the contract with immediate effect.

(2) The written warning and the penalty defined in subsection (1) may also be applied with the other adverse legal consequences defined in subsection (1).

(3) The warning and the statement concerning the suspension of the broadcasting entitlement shall be published in the Education Gazette (Művelődési Közlöny).

(4) The contract shall be terminated with immediate effect if

- a)* the contract could not have been concluded, and the state of affairs violating the law still prevails,
- b)* the contract violates the provisions contained in Chapter VIII of the Act, and the beneficiary failed to remedy the grievance in accordance with the provisions contained in the resolution of the Board and/or the Economic Competition Office within one hundred and eighty days,
- c)* since the conclusion of the contract, a written warning, as defined in subsection (1), paragraph *b)*, should be served for the second time.

(5) In the case of non-profit-oriented broadcasters and public broadcasters, the basis of the penalty is the broadcasting fee announced, unless a broadcasting fee is paid.

(6) If non-compliance with the regulations relating to advertising and sponsorship also violates the interests of the viewers and listeners, the Board may suggest the prohibition of the service or rendering the service dependent upon conditions, or the imposition of a fine, to the Consumer Protection Supervision, while applying the legal consequences of the violation of the contract.

## ***Title 13***

### **Cable and Satellite Broadcasting**

#### *Section 113*

(1) A broadcaster who disseminates its programmes solely with the aid of a broadcast transfer system shall, at least thirty days prior to the commencement of its broadcasting activity, report the details defined in Section 96, subsections (1)-(3) to the Board.

(2) If the Board did not refuse the acceptance of the above report within sixty days, the report shall be deemed as registered, with the proviso that the amount of the broadcasting fee shall be communicated to the beneficiary within the above deadline.

(3) Acceptance of the report shall be refused if the party serving the report could not otherwise be the beneficiary of a broadcasting contract.

(4) The broadcaster shall be deleted from the register if

*a)* registration were to be refused,

*b)* the operator announced the termination of broadcast distribution, or pursued that activity for a total maximum of sixty days in twelve months,

*c)* it violated its obligation defined in Chapter II of the Act repeatedly and seriously.

(5) The provisions of this Section shall apply even if broadcasting is not effected by using a satellite over which the Government has a right of disposal.

## ***Title 14***

### **Temporary Broadcasting**

#### *Section 114*

(1) In respect of local broadcasting rights, on request, a temporary broadcasting contract shall be concluded for a

maximum period of thirty days, in respect of taking advantage of a broadcasting facility

*a)* which is defined in the frequency plan published by the Board, and for which no tender application has been submitted, or

*b)* for which another party has already acquired broadcasting rights but broadcasting by the beneficiary does not commence within sixty days of the conclusion of temporary broadcasting.

(2) In the case of a broadcasting facility not defined in the frequency plan published, the applicant shall prove with a certificate issued by the Telecommunications Supervisory Board that the broadcasting can continue without causing any disturbance to others and without violating the international regulations. The certificate shall contain the technical details defined in Section 52, subsection (4). In this case, the Board shall grant the broadcasting rights on the basis of a procedure conducted in accordance with the following rules:

*a)* the invitation to tender, together with the details defined in Section 52, subsection (4), shall be published by the Board within eight days of the submission of the application;

*b)* bids shall be submitted within eight days of publication;

*c)* bids shall contain the following:

*ca)* name and address of bidder,

*cb)* the statutes or articles of association of a legal entity or unincorporated economic association,

*cc)* the planned broadcasting time in a daily, weekly or monthly breakdown,

*cd)* the broadcast plan,

*ce)* name and address of the person responsible for the broadcast;

*d)* if one single bid is submitted in respect of the broadcasting facility and it complies with the provisions contained in this Act, the Board shall conclude the broadcasting contract with the bidder;

e) if several bids are submitted in respect of the broadcasting facility, and all of them comply with the provisions contained in this Act, at the invitation of the Board the bidders may come to an agreement on the division of the broadcasting time among themselves. If this agreement is concluded, the Board shall conclude a broadcasting contract with each of the bidders under the same conditions. If, within three days of the invitation, no agreement is reached, the Board shall decide on whom to award the broadcasting rights to. In the case of a complaint lodged against the decision, the Board shall conduct the tender procedure in accordance with the provisions contained in Title 3.

(3) A temporary broadcasting contract may be concluded with the same enterprise once annually, or in the same administrative area three times annually, in such a way that there shall be at least one month between the terms of the temporary contracts. A broadcaster authorized to broadcast on a temporary basis may not join a network with another broadcaster.

(4) Based on a temporary broadcasting contract, a non-profit-oriented broadcaster need not pay a broadcasting fee. The broadcasting fee shall otherwise be established by the Board.

(5) In the course of the application of this Section, the regulations contained in Chapter VIII of the Act need not be taken into consideration.

(6) The period of temporary broadcasting indicated in subsection (1) cannot be extended.

## **CHAPTER VII**

### **BROADCASTING AND BROADCAST TRANSFER THROUGH A BROADCAST TRANSFER SYSTEM**

#### *Section 115*

(1) Unless it violates the law or an international convention, broadcasting may also be performed through a cable broadcast transfer telecommunications network or a broadcast transfer radio telecommunications device.

(2) The broadcasting defined in subsection (1) may be commenced following entry in the register used for this purpose.

(3) A broadcast transferor already operating at the date of the coming into force of the Act shall, within thirty days of the establishment of the Board, report the following to the Board, while a broadcast transferor starting its activity at a later date shall, thirty days prior to the commencement of its activity, report the following to the Board:

a) name and address (head office, permanent establishment) of the broadcast transferor, registration number in the company register or as provided by the authorities,

b) name and address of the person with a clean criminal record who bears the responsibility defined in the press law and in this Act for the activities of the broadcast transferor,

c) the articles of association or deed of foundation of the broadcast transferring enterprise, with any amendments thereto,

d) the statement of the broadcast transferor or the enterprise authorized to operate the system (hereinafter together "operator") on the size of his share in an enterprise publishing Hungarian daily newspapers or weeklies, distributing newspapers, performing broadcasting in Hungary or requiring a broadcasting right in Hungary,

e) area of reception of the planned broadcast transfer,

f) number of households connected to the broadcast transfer.

(4) The area of reception of the broadcast transferring enterprise may not exceed one third of the maximum area of regional broadcasting as defined in this Act.

(5) The reporting defined in subsection (3) grants no exemption from the obtaining of other permits prescribed in the legal rules.

(6) In the case of any change in the details supplied in the report, the details defined in subsection (3), paragraphs *a*)-*e*) shall be reported within thirty days, while the details defined in paragraph *f*) shall be reported by February 1 of the year following the subject year.

(7) The broadcast transferor shall be deleted from the register if

*a*) it reported the termination of broadcast transfer,

*b*) it pursued its activities for a total maximum period of sixty days in twelve months,

*c*) it failed to meet its obligations defined in subsections (5)-(6),

*d*) it distributed broadcasting without reporting,

*e*) it failed to comply with the notice of the Board concerning the suspension of the transfer of broadcasting served on the basis of an international treaty.

(8) The technical standards of broadcast transfer systems shall be regulated by the Minister of Transport, Telecommunication and Water in a Decree. The regulation shall be formulated in such a way that the newly built systems and the further construction of already existing systems satisfy the requirements of modern data transmission. In the case of the construction of broadcast transfer systems, the provisions of the Decree shall be enforced as of the coming into force of the Decree, while in the case of the reconstruction of already existing systems, as of 1 January 2003. In the case of already established broadcast transfer systems, the trunk network of which does not conform to the regulation contained in the Decree, the provisions contained in the Decree shall apply to the establishment of further connections to the population also as of 1 January 2003.

#### *Section 116*

(1) Unless it violates the law or an international treaty, the operator is entitled to transfer any Hungarian or foreign broadcasting, based on registration.

(2) For the transfer of the broadcasts of Hungarian or foreign broadcasters, the following shall be reported to the Board thirty days prior to the commencement of transfer:

*a*) permanent title/name of the broadcast of the Hungarian or foreign broadcaster intended to be transferred, and other details enabling the identification of the broadcaster,

*b*) the contract concluded with the broadcaster or another certificate verifying the broadcasting rights and/or the details which verify that the broadcast transferor has taken the steps necessary in the interest of the protection of copyright and adjacent rights,

*c*) technical details of the placement of each broadcasting service within the broadcast transfer system,

*d*) the placement of each broadcasting service in service packages representing different fees.

(3) The operator shall, by 1 February, report the number of households connected to the reception of each broadcasting service by 31 December of the previous year.

(4) If the Board did not refuse the acceptance of the report within 60 days, the report shall be deemed as registered.

(5) The Board may refuse registration if

*a*) the planned transfer of broadcasting violates this Act or an international covenant of the Republic of Hungary,

*b*) the details defined in subsection (2) are not available even after the party concerned was called upon to provide such missing information.

(6) The Board may disclose information to third parties on the details registered in accordance with the provisions contained in Act LXIII of 1992 on the Protection of Personal Details and the

Publication of Details of Public Interest. Based on the register, the Board may not supply details suitable for the identification of the person of the broadcaster or the person operating the broadcast transferring network for statistical purposes. At the request of the broadcasters of the broadcasts transferred by the broadcast transferor, the Board shall make the details contained in subsection (2) and relating thereto available for them.

*Section 117*

(1) As of 1 July 1996, the operator shall transfer all the broadcasts of public service broadcasters through its system if the area of reception thereof extends to the given head station. These broadcasts shall be distributed as a basic service, and the subscriber may not be charged with an extra fee for these broadcasting services.

(2) Transfer for all public service broadcasters shall be free of charge, and nor can public service broadcasters demand any consideration of the operator for the transfer of their broadcasts.

(3) The contract concluded between the operator and the broadcaster may not contain a stipulation which prevents the operator from concluding a contract with a broadcaster.

(4) The operator may conclude a contractual agreement with any broadcaster in which it undertakes to collect a fee from the subscribers of the broadcast transferring system for the broadcasts, to the benefit of the broadcaster.

*Section 118*

(1) Broadcasting which violates the provisions defined in Section 3, subsections (2)-(3) and Section 5, subsection (4) may not be transferred.

(2) In the case of the broadcasting services operating solely on a broadcast transfer system and specialized broadcasting services provided through a satellite telecommunications system, the number of broadcasting services belonging to the same broadcaster on the broadcast transferring system belonging to a single operator may not exceed twenty percent of the broadcasting services transferred in the broadcast transferring system.

(3) The broadcast transferor shall have the obligation to conclude contracts in respect of the contractual offers of local broadcasters, up to at least ten percent of its capacity but up to three broadcasters, at the most, with special regard to the local public broadcasters or the local non-profit-oriented broadcasters.

(4) The broadcast transferor shall have the obligation to conclude contracts in respect of the contractual offers of Hungarian regional or national broadcasters, up to a further ten percent of its capacity but up to a maximum of three broadcasters.

(5) The obligation to conclude contracts defined in subsections (3)-(4) shall prevail only in respect of broadcasters, the daily broadcasting time of which reaches four hours.

(6) If the contract defined in subsections (3) and (4) is not concluded within thirty days of the making of the offer, the broadcaster is entitled to contact the Board in the interest of the conclusion of the contract. The Board shall define the part of the contract relating to the fee in accordance with the market conditions, without regard to Section 117, subsection (4) and Section 119, subsection (4).

(7) In respect of the meeting of the obligation indicated in subsections (3) and (4), own broadcasting cannot be taken into consideration.

*Section 119*

(1) The operator cannot be regarded as a broadcaster if it performs the transfer of the broadcasting simultaneously, without altering the broadcast, provided that it was registered as a cable broadcast transferor on the basis of its report addressed to the Board.

(2) The party who broadcasts own advertising in the course of the simultaneous, unaltered transfer of broadcasts received from a foreign broadcaster in the amount of time available for utilization for advertising purposes in the broadcasts received shall not qualify as a broadcaster, in the case of compliance with the advertising regulations of this Act.

(3) The broadcast transferor shall handle the fee payable for the service of the broadcaster and the amount charged for the operation of the system separately.

(4) The owner or operator of a cable broadcast transferring telecommunications system may collect a fee of operation for the operation of the different broadcast channels only from the subscribers. An exception to this rule is if the broadcaster may pay a consideration for its telecommunications activity, with the proviso that in this case the fee of the given broadcasting package may not change.

(5) The operator of a radio telecommunications broadcast transferring system may charge the broadcaster, other than public service broadcasters, a consideration for its telecommunications activity, while it may collect a telecommunications service fee for the reception of the channels from the subscribers of the system.

#### *Section 120*

(1) With regard to the amount of the fee charged, the operator may create different broadcast groups.

(2) Operators shall keep a record of their advertising revenues originating from transfer separately on a continuous basis, and shall send information thereon, in a monthly breakdown, to the Board by 1 March of each year. In the course of its inspections, the Board is entitled to check the record.

#### *Section 121*

(1) The provisions relating to the broadcasting contract shall apply to the broadcasting services operating on a radio telecommunications broadcast transferring system qualifying as a restricted broadcast transferring system falling under the effect of national frequency management.

(2) The rules relating to broadcasting through cable broadcast transferring systems shall apply to broadcasting operating on non-restricted radio telecommunications broadcast transferring systems. For the purposes of this Act, the rules relating to cable broadcast transferring systems shall apply to systems used for broadcast distribution, as far as their original purpose is concerned, but realizing also broadcast transfer through direct reception.

(3) A separate Act shall be created in respect of the detailed rules of broadcast transfer.

### **CHAPTER VIII**

#### **RULES RELATING TO OWNERSHIP**

#### *Section 122*

(1) Natural persons with Hungarian citizenship residing in Hungary and legal entities seated in Hungary shall hold at least twenty-six percent of the voting rights in a company limited by shares with national broadcasting rights.

(2) A single enterprise may hold a maximum of forty-nine percent of the voting rights in a company limited by shares performing surface television broadcasting without being connected to the national network.

(3) For the purposes of subsection (2), the direct and indirect shares of ownership shall be added up.

(4) In the board of directors of a company limited by shares performing national broadcasting the majority of the members, while in the case of a non-profit company, the majority of the managing directors, shall be Hungarian citizens residing in Hungary.

(5) The shares providing voting rights of a company limited by shares performing national and regional broadcasting may not be held by a foundation.

#### *Section 123*

(1) With the exception of specialized broadcasters, broadcasters with national broadcasting rights and those holding a controlling share therein may not acquire a controlling share in another enterprise performing broadcasting or broadcast transfer.

(2) The same enterprise may acquire a controlling share in an organization entitled to broadcast with regard to the restrictions defined in Section 86, subsection (5).

#### *Section 124*

(1) A regional and local broadcaster may not acquire a controlling share in another regional or local broadcasting enterprise falling within the area of reception of its own broadcasting, with regard to the exception defined in subsection (2).

(2) The restriction defined in subsection (1) is not applicable if

a) there is a maximum overlap of twenty percent between the areas of reception of the two broadcasters, or

b) following the assessment of a tender, an amount of unused broadcasting time remains, and beside inviting a new tender, a contract is concluded with the broadcaster indicated in subsection (1) in respect of the amount of broadcasting time remaining free, provided that eighty percent of the broadcasting time so acquired by it differs from its already existing broadcasting time and neither broadcasting time is in excess of four hours.

(3) In the case of regional or local broadcasting performed through a cable broadcast transferring network, a single broadcaster may use a maximum number of channels corresponding to one third of its channels serving the transfer of broadcasting in Hungary in the system used by it, but a minimum of one for own broadcasting purposes.

#### *Section 125*

(1) Those holding a controlling share, publisher's or founder's rights in a daily newspaper with a nationwide circulation may not acquire a controlling share in a broadcaster or broadcast transferor operating with national broadcast diffusion, without being connected to a network, and vice versa.

(2) Those holding a controlling share, publisher's or founder's rights in a weekly with a nationwide circulation, other than a weekly listing television and radio programmes, may not acquire a majority share in a broadcaster operating with national broadcast diffusion, without being connected to a network, and vice versa.

(3) Those holding a controlling share, publisher's or founder's rights in a daily newspaper with a non-nationwide circulation, the number of copies of which sold daily reaches ten thousand may not acquire a majority share in a broadcaster or broadcast transferor, the reception area of which overlaps with eighty percent of the distribution area of the newspaper, and vice versa.

(4) The owner, publisher or founder defined in subsection (3) may acquire a smaller share of ownership than a majority share of ownership if another local or regional broadcaster or broadcast transferor covering at least seventy percent of the given area of reception already operates.

#### *Section 126*

(1) A party holding a controlling share in a broadcast transferring enterprise may not acquire a controlling share in another broadcast transferor.

(2) Those holding a controlling share in a newspaper distributing enterprise may not acquire a controlling share in a broadcasting or broadcast transferring enterprise, and vice versa.

*Section 127*

(1) A non-profit-oriented broadcaster may acquire other broadcasting rights also only as a non-profit-oriented broadcaster.

(2) The operator who broadcasts his own programmes may not hold a controlling share in another enterprise performing broadcasting and may not acquire broadcasting rights outside its own system.

(3) The organizational merger and the acquisition of decisive influence as defined in the Act on the Prohibition of Unfair Market Practices may not be authorized if it results in the infringement of the provisions contained in this Act.

**CHAPTER IX**

**INVITING TENDERS IN RESPECT OF CERTAIN NATIONAL BROADCASTING RIGHTS**

*Section 128*

(1) In the course of inviting tenders in respect of the broadcasting rights named MTV2 and Danubius Radio at the date of the coming into force of this Act, and in respect of rights for the third national surface television broadcasting entitlement, Section 52, subsections (2) and (6) are not applicable, and in other matters the provisions contained in Chapter VI shall apply with regard to the differences defined in Sections 129-131.

(2) The Government shall commence the following without delay:

*a)* the establishment of the frequency stock available for the purposes of the third national surface television broadcasting service so that the frequency stock, together with the projects to be implemented in the following, be suitable for the establishment of an area of reception extending to at least seventy percent of the total population in the eleventh month following the coming into force of the Act. The extension of the area of reception to at least eighty-five percent of the population shall be provided for within one year of the commencement of broadcasting. The planning and design of the frequency stock and the preparations necessary for establishment shall be completed by the date of the announcement of the tender defined in Section 129,

*b)* provision of the facilities available in the frequency band of 87.5 to 108.0 MHz for the purposes of two national broadcasting services for the Hungarian Radio, as scheduled in the first sentence of paragraph *a)*, in such a way that, in the case of one of the broadcasting services, the area of reception extend to at least eighty percent of the population, while in the case of the other broadcasting service, to at least fifty percent of the population.

*Section 129*

(1) The Board shall, within one hundred and twenty days of the coming into force of the Act, invite a tender in respect of the broadcasting rights named as MTV2 prior to the coming into force of the Act and in respect of the rights for the third national surface television broadcasting entitlement in such a way that broadcasting shall commence within one month, at the latest, of the commencement of the second broadcasting service of the Hungarian Television.

(2) Bids shall be submitted within ninety days of the invitation of the tender. The Board shall assess the bids within sixty days of the expiry of the deadline for the submission of bids, duly applying Sections 98-101. In the case of the provision of missing information, the deadline for assessment shall be extended by fifteen days.

(3) In the invitation to tender the Board shall define the conditions, other than those prescribed in Section 91, subsections (1)-(3), that bidders should meet.

(4) The invitation to tender in respect of the television broadcasting rights named as MTV2 prior to the coming into force of the Act shall contain the following:

*a)* the broadcaster shall broadcast public service programmes in at least twenty-five percent of its daily broadcasting time. The public service programmes shall be placed during the prime time in such a way that the ratio thereof, on a weekly average, reach twenty percent,

*b)* the broadcaster shall edit at least thirty-five percent of its annual broadcasting time, not including motion pictures, advertising, news, sports broadcasts, competitions/quiz shows and games, from Hungarian-made programmes,

*c)* the broadcaster shall edit at least thirty percent of its total broadcasting time, in the average of a calendar month, not including motion pictures, advertising, news, sports broadcasts, competitions/quiz shows and games, from Hungarian-made programmes,

*d)* the broadcaster shall broadcast non-self-made but Hungarian-made programmes, other than motion pictures, in at least nine percent of its annual broadcasting time, not including advertising and sports broadcasts, and as of 1 January 1999, at least eleven percent thereof,

*e)* the ratio defined in subsection *b)* shall also be enforced during the prime time.

(5) The extent and rate of the obligations of the third national surface television broadcasting entitlement, as defined in subsection (4), shall be established by the Board in the tender. The extent and rate of such obligations shall be established more leniently, compared with those defined in subsection (4).

#### *Section 130*

(1) The Board shall, also with regard to Section 132, subsection (2), invite a tender within ninety days of the coming into force of the Act in respect of the broadcasting rights named as Danubius Radio prior to the coming into force of the Act, as well as in respect of at least one national radio broadcasting service announced in the frequency band of 87.5-108.0 MHz. The Board shall define the frequency stock of the broadcasting service named Danubius Radio in the invitation to tender in such a way that broadcasting can only be commenced if the Hungarian Radio commenced at least one national broadcasting service using the frequency band of 87.5-108.0 MHz. The right of using the name shall also be transferred together with the broadcasting rights.

(2) Bids shall be submitted within ninety days of the invitation of the tender. The Board shall assess the bids within sixty days of the expiry of the deadline for the submission of bids, duly applying Sections 98-101. In the case of the provision of missing information, the deadline for submission shall be extended by fifteen days.

#### *Section 131*

(1) The broadcasting fee established as a result of the tender and payable for the broadcasting rights awarded in accordance with this Chapter shall be composed of two parts: a one-sum fee reaching at least thirty percent of the full amount, and the instalments payable annually as of the fourth year.

(2) Seventy percent of the fee payable for MTV2 shall be due to the Hungarian Television Public Foundation, and thirty percent thereof shall be due to Hungária Television Public Foundation. The broadcasting fee payable for the rights known under the name of Danubius shall be received by the Hungarian Radio Public Foundation.

(3) The fee payable for the rights of the third national surface television broadcasting shall be due to the Broadcasting Fund in such a way that the revenues arising therefrom shall be used for the

development of the cable networks used for broadcast diffusion and the distribution of broadcasting services. This amount cannot be used for any other purposes.

*Section 132*

(1) The Hungarian Radio shall, following the tender, transmit three national broadcasts for the fulfillment of its responsibilities defined in the Act, one of which may be broadcast in the frequency band of 526.5-1606.5 kHz, and two in the frequency band of 87.5-108.0 MHz.

(2) The Board shall formulate the national and regional radio broadcasting facilities in such a way that the Hungarian Radio and other broadcasters may acquire the broadcasting facilities with equal chances, with regard to the broadcasting norms.

(3) The Hungarian Television shall, following the tender, broadcast one national surface broadcasting service, the conditions of frequency use of which are identical with the conditions of the broadcasting service named as MTV prior to the coming into force of the Act, and another nationally disseminated broadcasting service.

(4) Following the examination of the technical, economic and legal conditions of the broadcasting service defined as second in subsection (3), the Board shall decide upon implementation with regard to the opinion of the board of trustees in such a way that broadcasting shall be commenced within eleven months of the coming into force of the Act, and MTV2 shall use both the current and the new transmission facilities for a period of one month. In the course of changing over, Hungarian Television shall broadcast two programmes throughout.

(5) Duna Television shall provide a broadcasting service serving the public through a satellite system.

*Section 133*

(1) The rights, based on this Act, of public service broadcasters shall extend, in the case of radio broadcasting, for a period of seven years, while in the case of television broadcasting, for a period of ten years. On expiry of the term of validity, the rights can be extended several times, without any alteration, for the same amount of time, if the international restrictions relating to the given broadcast diffusion facilities, the regulations of the Table of the National Distribution of Frequency Bands or the obligations of supply have not changed. In the place of the rights that cannot be extended, the public service broadcaster shall be provided with rights relating to another broadcasting facility suitable for meeting its obligation of supply.

(2) In respect of the national surface television and radio broadcasting rights, following the termination of such entitlements, the Board shall review the system of national broadcasting services, with regard to the opinion of the boards of trustees, and shall decide as to whether retain or alter the rights for the public service broadcasters.

(3) The broadcast diffusion facilities identified by the frequency and broadcasting features necessary for public service broadcasters to meet their obligations of broadcasting shall, following a preliminary reconciliation discussion, be established by the Board by applying the voting and publicity rules applicable to the making of its decisions.

(4) The preliminary reconciliation discussion mentioned in subsections (2) and (3) shall be conducted by the Board with the representatives of the Telecommunications Supervisory Board, the public service broadcaster and the telecommunications service provider performing the diffusion of the broadcasts.

(5) Subsections (2) and (3) shall not apply to the broadcast diffusion facilities of the radio broadcasting services of a public service broadcaster targeting foreign countries. For the purposes

of such broadcasting, the rights relating to frequency use shall be provided by the Telecommunications Supervisory Board within the framework of an international procedure.

#### *Section 134*

(1) A public service broadcaster may apply for further broadcast diffusion facilities, in addition to the facilities realized through the broadcast diffusion due to it on the basis of the Act, within the framework of the procedure defined in the provisions contained in Chapter VI, before 1 January 2000, only if it is otherwise unable to fulfill its responsibility defined in Section 23, subsection (4), paragraph *c*).

(2) The provisions contained in Section 122, subsections (1)-(3) and (5) shall not apply to public service broadcasters, while the restriction defined in Section 123, subsection (1) is applicable if the public service broadcasters obtain broadcasting rights also through a tender.

(3) A public service broadcaster may also provide local and regional broadcasting services.

### **CHAPTER X OTHER PROVISIONS**

#### ***Title 1***

##### **Fine**

#### *Section 135*

In the case of unauthorized broadcasting, or broadcast transfer without reporting or in a manner differing from that reported, the Board may impose a fine on the culpable party corresponding to double the revenues realized illegally, or if they cannot be established, a fine extending from ten thousand forints to one million forints, which is payable by the responsible party to the Fund.

#### ***Title 2***

##### **Application of the Rules of the State Administrative Proceedings**

#### *Section 136*

(1) For the purposes of Title 12 of Chapter VI, Chapter VII and Section 135, the Board is an organization proceeding in administrative matters, and Act IV of 1957 on the General Rules of State Administrative Proceedings shall apply to its proceedings, with regard to the differences contained in this Section.

(2) There is no appeal against the decisions of the Board through administrative channels.

(3) The court may be requested to review the decision of the Board. The court shall proceed in accordance with the rules of Chapter XX of the (Hungarian) Code of Civil Procedure. The court may alter the decision of the Board.

#### ***Title 3***

##### **Extraordinary Situations**

#### *Section 137*

In the case of extraordinary state, state of martial law, emergency, the unexpected invasion of the territory of Hungary by external armed groups, or the protection of the territory of the country by the air defence and air forces of the Hungarian Army, Parliament, the Defence Council, the President of the Republic and the Government, as well as the persons and

organizations defined in the Act based on Sections 19/D. and 19/E. and on Section 35, subsection (3) of the Constitution may, to the extent required by the situation, oblige the broadcaster to transmit, free of charge, any announcements of public interest in connection with the existing state of affairs or situation in the form and at the time defined by them, or may prohibit transmission/broadcasting. When effecting the public broadcast, the source shall be clearly identified.

#### ***Title 4***

### **Parliamentary Broadcast**

#### ***Section 138***

(1) A closed circuit television system shall be set up for the broadcasting of the whole of the sessions of Parliament, the public parliamentary committee hearings dealing with appointments and nominations, and, as required, the meetings of the parliamentary committees, within one year of the coming into force of this Act.

(2) The signal emitted from the closed circuit system shall be made accessible to all broadcasters. The costs of joining the system shall be covered by the broadcaster.

(3) The provisions contained in subsections (1) and (2) shall not affect the right of the broadcaster to transmit or record broadcasts on line from the place designated for that purpose in the building of Parliament.

(4) A recorded copy of the outgoing signal accessible to all shall be deposited in the Parliamentary Library and in the National Széchenyi Library. The Parliamentary Library shall provide for the accessibility of the recorded material, and, against the payment of costs, shall prepare a copy that may be freely used by anybody. A copy each shall also be deposited in the archives of the Hungarian Television and the Hungarian Radio (sound recordings).

(5) The broadcasting rules providing for the impartiality of the broadcasting of the activity of Parliament shall be defined as an appendix to the House Rules of Parliament within one year of the coming into force of the Act.

(6) A national broadcaster which is engaged solely in the continuous and full presentation of the activity of Parliament and in the related analysis shall qualify as a public service broadcaster as defined in this Act.

(7) The chairmen of public service broadcasters shall, within their competence defined in Section 71, paragraph *a*), provide for the order of the continuous broadcasting of parliamentary sessions.

(8) Until the transformation of public service broadcasters into companies limited by shares, the order of parliamentary broadcasts in force at the time of the coming into force of the Act shall not change.

## ***CHAPTER XI***

### ***CLOSING PROVISIONS***

#### ***Title 1***

### **Coming into Force**

#### ***Section 139***

(1) Section 142 of this Act shall come into force on promulgation, while its other provisions, with the exception of those defined in subsections (2)-(4), shall come into force on the 1st day of the month following promulgation.

(2) Section 75, subsection (1), Sections 79-84 and Section 162 shall come into force on 1 January 1997.

(3) Section 161, paragraph *p*) shall come into force at the date of the foundation of the Magyar Rádió and Magyar Televízió companies limited by shares.

(4)

## ***Title 2***

### **Establishment of the Board and the Public Foundations**

#### ***Section 140***

(1) Within forty-five days of the promulgation of this Act,

*a*) the members of the Board shall be elected,

*b*) the members of the presidia of the boards of trustees shall be elected.

(2) The notice defined in Section 57, subsection (2) shall be published for the first time within sixty days of the coming into force of this Act. The deadline for application is twenty days reckoned from publication. The Government shall provide for the fulfillment of the administrative and controlling responsibilities related to registration until the establishment of the official organizations of the Board. The drawing of lots defined in Section 57, subsection (5) shall, for the first time, be held within twenty days of the expiry of the deadline for application for registration.

(3) The presidia of the boards of trustees shall publish public invitations for application in respect of the post of chairman for the public service broadcasters within thirty days of their election. The deadline for the submission of applications is thirty days, and the applications shall be assessed within thirty days.

(4) At the time of the election of the presidia of the boards of trustees, Parliament shall approve the deeds of foundation of the public foundations which will come into being through registration by the court. In the registration procedure Parliament shall be represented by its Secretary General.

(5) The mandate of the current board of trustees of Hungária Television Public Foundation shall cease by the election of the presidium of the new board of trustees. The new board of trustees complemented by the delegated members shall, within sixty days of establishment, amend the deed of foundation of Duna Televízió Co. Ltd. in accordance with this Act.

(6) The list of the names of the members of the Board, the presidia of the boards of trustees and the delegated members shall be published in the Hungarian Gazette (Magyar Közlöny).

## ***Title 3***

### **Foundation of Magyar Rádió Company Limited by Shares and Magyar Televízió Company Limited by Shares**

#### ***Section 141***

(1) The Government shall, within six months of the coming into force of the Act, evaluate the assets of the Hungarian Radio and the Hungarian Television on the basis of stocktaking. These assets shall be delivered to the Hungarian Radio Public Foundation and the Hungarian Television

Public Foundation on the day, as of which the public foundations found the companies limited by shares. The companies limited by shares shall be established with a retroactive effect to the date defined in the deed of foundation, through being entered in the company register.

(2) Magyar Rádió Company Limited by Shares is the general legal successor of the Hungarian Radio, as budgetary organ, while Magyar Televízió Company Limited by Shares is the general legal successor of the Hungarian Television, as budgetary organ. With regard to this, Section 251, subsection (2) of AEA need not be taken into consideration.

(3) The acquisition of assets and the foundation of companies by the public foundations in accordance with this Act shall be exempt from the obligation of the payment of all taxes and duties.

(4) The keeping of the bank accounts of the Hungarian Radio and the Hungarian Television shall be continued on the basis of legal continuity, and in the real property register the right of ownership of the state-owned properties concerned shall be transferred to the name of the company limited by shares concerned, ex officio, indicating the interim acquisition of assets by the public foundations.

(5) Public service broadcasters shall be exempt from the corporate tax, and enjoy personal exemption from duties.

(6) The Hungarian Radio and the Hungarian Television, as budgetary organs, shall cease to exist on the day defined in subsection (1).

(7) Also with regard to subsection (2), the Government shall initiate the amendment of the Act on the Budget of 1996 so that there be no interruption in the payment of the continuous 1996 budgetary subsidies of the Hungarian Radio and the Hungarian Television due to their transformation into companies limited by shares. In the course of this, the subsidies of Duna Television shall be increased, the source of which may be the re-distribution of the revenues obtained from the television set subscription fees. The bill amending the budget shall, to the debit of the revenues obtained from the subscription fees, also provide for the cover necessary for the operation of the Board and the boards of trustees of the public foundations.

(8) Four fifths of the attending members of the committee of Parliament competent in budgetary matters may propose the appointment of a parliamentary ombudsman to the Hungarian Radio or the Hungarian Television for the term of the transformation. The responsibility of the parliamentary ombudsman is to countersign the legal statements made by the chairman (vice-chairman) of the Hungarian Radio or the Hungarian Television. Without such countersigning the legal statements shall be invalid.

(9) In the absence of the parliamentary ombudsman defined in subsection (8), the presidium of the board of trustees of the Hungarian Radio Public Foundation and the presidium of the board of trustees of the Hungarian Television Public Foundation shall, as of the date of establishment, exercise the competence defined in Section 66, subsection (2), paragraphs *c*) and *da*)-*dc*) of the Act, and accordingly, the chairmen of the Hungarian Radio and the Hungarian Television shall proceed in accordance with the obligations defined in Section 71, paragraphs *g*) and *h*) of the Act.

#### *Section 142*

The mandate of the chairmen and vice-chairmen in office of the Hungarian Radio and the Hungarian Television, as well as of the members of the board of directors and the Director General of Duna Televízió Company Limited by Shares, shall cease with the entry into office of the chairmen elected in accordance with this Act. Following the promulgation of the Act, the chairmen in office (the board of directors and Director General of Duna Televízió Company

Limited by Shares) are entitled to take the measures necessary in the interest of maintaining viability. They are not entitled to alienate real property, and to conclude contracts for a term of more than one year, or to a value exceeding five percent of the total amount of expenditures in the annual financial plan of the institution, or yielding the exclusive use of advertising rights, other than those falling in the sphere of financial management activities pursued on a regular basis in accordance with the purpose of the institution. Nor are they entitled to cut staff to the extent defined in Sections 22-23 of Act IV of 1991, or to amend the organizational and operational rules in force within their own competence.

#### *Section 143*

(1) The public servant legal relationship of the employees of the Hungarian Radio and the Hungarian Television shall, simultaneously with the foundation of Magyar Rádió Co. Ltd. and Magyar Televízió Co. Ltd., change into employment relationship. The amount of time served by the employees at the Hungarian Radio and the Hungarian Television in the status of public servants shall be deemed as if the same amount of time had been served with the company limited by shares. Prior to the change in the legal relationships, the senior officer and management appointments shall, simultaneously with the change in the legal relationships, be regarded as withdrawn on the basis of Act XXXIII of 1992 on the Legal Status of Public Servants (hereinafter "PSA").

(2) In contrast to the provisions contained in subsection (1), in respect of the period of notice and severance pay, the amount of time served with Magyar Rádió Co. Ltd. and Magyar Televízió Co. Ltd. shall be reckoned from the date of the changing of the public servant legal relationship into employment relationship. The period of exemption and the rate of the severance pay calculated on the basis of the term of the previous public servant legal relationship, in accordance with the rules of PSA applicable at the date of the changing of the legal relationship, shall be added to the term of notice and the rate of the severance pay.

(3) In respect of any claims arising from the public servant legal relationship prior to the change defined in subsection (1), the provisions of PSA in force at the date of the inception of the claims shall apply, while in respect of the order of the enforcement of such claims, the provisions of Act XXII of 1992 on the Labour Code shall apply. The statement (measure) or agreement related to the termination of the public servant legal relationship shall be assessed on the basis of the provisions of PSA in force at the date of the statement or at the date of the conclusion of the agreement.

(4) In connection with the changing of the public servant legal relationship of the employees of the Hungarian Radio and the Hungarian Television into employment relationship, the provisions of Section 25/A. of PSA are not applicable.

(5) Disciplinary proceedings in progress and labour law proceedings related to the disciplinary decision of the employer, other than those defined in subsection (6), shall be terminated.

(6) If the labour law proceedings are concerned with dismissal on disciplinary basis, the rules of extraordinary notice shall duly apply to the judgement of the case.

(7) The execution of disciplinary punishment for a definite period of time shall be terminated.

(8) The Public Servants' Council of the Hungarian Radio and the Public Servants' Council of the Hungarian Television shall continue to operate as work councils.

#### *Section 144*

(1) The broadcasting performed by the Hungarian Radio at the time of the coming into force of the Act may be continued in accordance with the general conditions defined in Chapter II of this

Act until the party acquiring the broadcasting rights in respect of the frequency used for broadcasting until the coming into force of the Act in the tender procedure defined in the Act commences the diffusion of its broadcast.

(2) The provisions on the restriction of advertisement time and the sponsorship of programmes are not applicable to the Hungarian Radio, Hungarian Television and Duna Television until September 1, 1997 and December 31, 1996 respectively.

(3) Subsection (2) of Section 84 is to be applied as per the following between January 1, 1997 and December 31, 1997:

After collection costs are deducted, forty percent of all operating fees received by the Fund under any title shall be allocated to the Hungarian Television Company, while twenty-eight percent shall be allocated to the Hungarian Radio Company and twenty-four percent to the Duna Television Company by disbursement through the owner of the public foundation, one percent for the operating costs of the Board, and another one percent - divided equally - for the operating costs of the Hungarian Radio Public Foundation, the Hungarian Television Public Foundation and the Hungária Television Public Foundation, and finally six percent shall be applied toward the tenders to be announced for supporting public service programmes.

#### *Section 145*

Two of the three 66.0-73.0 MHz frequency bands used for the dissemination of the broadcasts of the Hungarian Radio at the time of the coming into force of the Act may be used for a maximum period of three years reckoned from the coming into force of the Act, while the third 66.0-73.0 frequency band may be used for a period of ten years. Within this time limit, the Board may withdraw two rights relating to the use of the 66.0-73.0 MHz frequency band from the Hungarian Radio if two broadcasting services are realized in the 87.5-108. MHz frequency band.

### ***Title 4***

#### **Miscellaneous Provisions**

##### *Section 146*

(1) The licensees of the studio licences issued prior to the coming into force of the Act and valid up to a set date may apply to the Board for the transformation of their licences into broadcasting contracts by 31 March 1996. Failure to keep this deadline shall result in the forfeiture of the right which means that the licence shall cease to be valid. The Board may not conclude a contract with the applicant if the studio does not perform broadcasting or does not perform broadcasting in accordance with the studio licence. With the decision of the Board to that effect the studio licence shall cease to be valid.

(2) The Board shall conclude the contract with the applicant for the term of the studio licence defined in the original licence and in respect of the area of reception defined therein, establishing the broadcasting fee, if the applicant operates in accordance with the provisions contained in the studio licence.

(3) The Board shall invite a tender in respect of the frequency (broadcasting time) released through the loss of the validity of the studio licence, except if the broadcaster does not consent thereto on the basis of Section 100, subsection (3).

(4) Tenders shall be invited in respect of the utilization in accordance with this Act of the frequencies used on the basis of the studio licences issued prior to the coming into force of the Act for an indefinite period of time or with reference to the time limit defined in this Act. The

Board shall invite tenders in respect of the frequencies used on the basis of studio licences issued with reference to the time limit defined in this Act within nine months, while in respect of the frequencies used on the basis of studio licences issued for an indefinite period of time after one year but within one and a half years, at the most. These deadlines shall be reckoned as of the coming into force of the Act. The studio licences shall cease to have effect at the date of the commencement of the broadcasting commencing on the basis of the broadcasting contract concluded on the basis of the tender, at the latest.

(5) In the tenders defined in subsections (3)-(4), the former operation of the party entitled to broadcast earlier on the basis of the studio licence on the same frequency shall be evaluated as a major consideration in the course of the assessment process.

(6) The Board may conclude contracts with the enterprises not complying with the provisions contained in Sections 85-88, Section 108 and Chapter VIII of the Act but operating at the date of the coming into force of this Act under the condition that they are obliged to alter their activity or transform their enterprises by 31 December 1996.

#### *Section 147*

(1) The provisions contained in Sections 20 and 21 shall not affect the activity of the telecommunications service provider already providing value added services prior to the coming into force of this Act.

(2) Network-based television broadcasting, other than network-based broadcasting with a reception zone not greater than fifty kilometres in diameter, may not be commenced prior to 1 January 1997.

(3) The restriction defined in subsection (2) is not applicable in the case of a broadcaster operating on a continuous basis, the broadcasting of which qualifies as network-based broadcasting in accordance with this Act, and which

*a)* commenced its operation one year prior to the coming into force of the Act, and

*b)* operates as network-based broadcasting for a maximum daily broadcasting time of four hours.

The area of reception of the broadcaster so acquiring rights may not be greater prior to 1 January 1997 than three months prior to the coming into force of the Act.

#### *Section 148*

(1) The Government is hereby authorized to regulate in a decree the system of collection of maintenance of operation fees and the detailed rules of selecting the organization to be appointed for collection, including the provisions of Subsection (2) of Section 82.

(2) Within thirty days of the coming into force of the Act, the Government shall provide for

*a)* the taking of the measures necessary for the applicability in Hungary of the European Council Convention concerning "Cross-Border Television Broadcasting",

*b)* the amendment of Government Decree No. 95/1991 (VII. 23.)Korm. on the Consumer Protection Supervision in harmony with this Act.

(3) The Government is hereby authorized to issue the legal rule or standard concerning the technical conditions of joining a network.

(4) The Board is hereby authorized to define the terms of European-made and Hungarian-made programmes. The Board shall publish its position on the issue in the Hungarian Gazette (Magyar Közlöny) prior to inviting the tenders in respect of the national broadcasting rights, and may not alter the contents thereof following publication.

#### *Section 149*

(1) The Government is hereby authorized to provide for the establishment of the system of the technical conditions and requirements of radio and television broadcasting, in consultation with the Board.

(2)

## ***Title 5***

### **Amending Provisions**

#### *Section 150*

(1) Section 343, subsection (1) of the (Hungarian) Code of Civil Procedure shall be replaced by the following provision:

"(1) If the press fails to meet the obligation of correction within the deadline set, the party requiring the correction may start legal proceedings against the editorial board of the periodical, the broadcaster as defined in the Act on Radio and Television Broadcasting, or the Hungarian News Agency."

(2) Section 344, subsection (1) of the Code of Civil Procedure shall be replaced by the following provision:

"(1) In the case of the periodicals, the editorial offices of which are located in Budapest, all Budapest-seated broadcasters and the Hungarian News Agency, the Pest Central District Court shall be competent in any legal proceedings, while otherwise that court shall be competent, in the area of which the editorial office of the periodical or the head office of the broadcaster or studio is located."

#### *Section 151*

#### *Section 152*

(1) Section 12, subsection (1) of Act II of 1986 on the Press (hereinafter "PA") shall be replaced by the following provision:

"(1) Everybody is entitled to produce and publish products of the press. This right may be restricted by law to the extent absolutely required and proportional in the interest of the enforcement of another fundamental constitutional right."

(2) Section 12 of PA shall be complemented by the following subsection (3):

"(3) The Ministry (organization with national competence) exercising supervision over the armed forces, the law and order protection agencies and police organizations shall exercise the right of registration in respect of the products of press serving educational, training or instruction purposes and published by the organizations listed above for internal use."

(3) Section 20, paragraph *a*) of PA shall be replaced by the following provision:

"press: periodical, broadcaster as defined in the Act on Radio and Television Broadcasting, and news agency".

(4) Section 22, subsection (3) of PA shall be replaced by the following provision:

"(3) The legal proceedings defined in Section 15, subsection (1) and Section 19, subsection (2), as well as the court proceedings aimed at the prohibition of publication, shall fall within the jurisdiction and exclusive competence of the Metropolitan Court."

#### *Section 153*

#### *Section 154*

Section 1, subsection (1) of Act LVII of 1990 on the Order of the Appointment of the Heads of Information Public Service Providers (Hungarian Radio, Hungarian Television, Hungarian News

Agency) shall be replaced by the following provision, while the numbering of subsection (2) shall change to subsection (4):

"(1) The President of the Republic shall appoint and recall the chairmen and vice-chairmen of the Hungarian Radio and the Hungarian Television, as well as the Director General of the Hungarian News Agency, at the recommendation of the Prime Minister, following the public hearing conducted by the committee of Parliament concerned with cultural and press matters, if the recommendation is supported by four fifths of the attending members of the committee.

(2) The President of the Republic shall appoint and recall the Director General of the Hungarian News Agency at the recommendation of the Prime Minister, following the public hearing conducted by the committee of Parliament concerned with cultural and press matters.

(3) Subsection (2) shall come into force at the date of the foundation of the Magyar Rádió and Magyar Televízió companies limited by shares, and simultaneously, subsection (1) shall cease to be in force."

*Section 155*

*Section 156*

Section 1, subsection (1), paragraph *k*) of Act XVI of 1991 on Concessions shall be replaced by the following provision:

*(This Act shall establish)*

"k) telecommunications services (telephone services for the public, mobile radio telephone services for the public, national paging services provided for the public, distribution and diffusion of national and regional radio and television programmes, with the exception of specialized broadcasting,"

*Section 157*

(1)

(2) Section 1, subsection (2) of PSA shall be complemented by the following:

"...and the office of the National Radio and Television Board in Hungary...."

*Section 158*

(1) Section 3, subsection (1), paragraph *d*) of TA shall be replaced by the following provision:

*(Of the telecommunications services)*

"d) the distribution and diffusion of national and regional radio and television broadcasts, with the exception of specialized broadcasting"

(2) Section 39 of TA shall be complemented by the following subsection (3), and the number of the current subsections (3)-(5) shall change to subsections (4)-(6):

"(3) Telecommunications organizations or the legal successors thereof formed prior to the coming into force of this Act and mentioned in Section 37, subsection (1) may provide the telecommunication services defined in Section 3, subsection (1), paragraphs *c*) and *d*) only on the basis of a concession contract as of 31 December 2002. The Minister is entitled to conduct concession proceedings both prior to or following this deadline."

(3) Paragraph 17 of the Schedule to TA shall be replaced by the following provision:

"17. Regional broadcast diffusion

The broadcast diffusion, in the reception area of which less than one half of the population of the country lives."

*Section 159*

(1) Section 3, subsection (1), paragraph *g*) of FA shall be replaced by the following provision:

*(the responsibilities of the Government are:)*

"g) approving the Hungarian standpoint for world and regional conferences on radio telecommunication".

(2) Section 5 of AFM shall be replaced by the following provision:

"Section 5 (1) The Government shall set up a National Telecommunications and Informatics Council (hereinafter "Council") composed of 11 members for the purpose of participation in the fulfillment of the informatics and telecommunications responsibilities of the Government.

(2) Three members of the Council shall be delegated by the Government. The members delegated by the Government may be recalled.

(3) The other eight members of the Council, including the chairman of the Council, shall be selected from among those with at least five years' experience in the fields of telecommunications and informatics.

(4) The chairman of the Council shall be appointed by the President of the Republic, with the counter-signature of the Prime Minister.

(5) The Council shall only be subject to the law, and its members cannot be instructed in respect of their activities.

(6) Of the members,

*a)* three members shall be delegated by the National Radio and Television Board,

*b)* one member shall be delegated by the Telecommunications Interest Reconciliation Forum,

*c)* one member shall be delegated by the Hungarian Academy of Sciences,

*d)* one member shall be delegated by MTESZ (Association of Technical and Scientific Societies),

*e)* one member shall be delegated by the Informatics Interest Reconciliation Forum.

(7) The mandate of the members of the Council shall extend for a period of four years.

(8) The position of the member in the Council defined in subsection (6), paragraph *e)* shall remain vacant until the establishment of the Informatics Interest Reconciliation Forum on the basis of a legal rule.

(9) The provisions contained in Sections 34-37 of the Act on Radio and Television Broadcasting shall duly apply to the Council and its members, with regard to the following differences:

*a)* the chairman and members of the Council may not be senior officers, members of the board of directors or supervisory boards, members of the boards of trustees, of organizations performing news providing, programme-making, newspaper publishing, newspaper distributing and frequency managing activities, may not enter into a work-related contractual relationship with the above organizations, and may not be the owners (members, shareholders) thereof,

*b)* the members of the Council delegated by the Government may be civil servants,

*c)* any vacant position in the Council shall be filled by the organization entitled thereto within thirty days,

*d)* in addition to the reasons defined in Section 37, subsection (5) of the Act on Radio and Television Broadcasting, a further reason for exclusion may be if the member of the Council becomes unworthy of his position,

*e)* the two-third majority vote of the members of the Council is required for a decision on conflicts of interests, recall or exclusion.

(10) The rules of conflicts of interests defined in subsection (9), paragraph *a)* shall apply also in the six months following the termination of membership, with the exception of the restriction relating to close relatives.

(11) The members of the Council may not pursue political activities, may not make political statements, and may not undertake senior positions in parties."

(3) FA shall be complemented by the following Section 5/A:

"Section 5/A. (1) The Council is the commenting and proposal-making agency of the Government.

(2) The Council shall make proposals:

a) to the Government

- in respect of the establishment of the regulation of the telecommunications market, and the promotion of the equality of the chances of those operating on the market,
- in respect of providing for the harmony with governmental and civil frequency management,
- in respect of the Hungarian standpoint to be represented at world and regional conferences on radio telecommunication;

b) to the competent minister

- in respect of the appointment of the chairman of the Telecommunications Supervisory Board,
- in respect of the utilization plan of the Telecommunications Fund, except for the utilization necessary for meeting the obligations defined by law or in the concession contracts.

The proposals shall be forwarded to the Government by the competent minister.

(3) The Council shall comment

- the National Distribution Table of Frequency Bands,
- any disputed matters arising between the two competent ministers in respect of frequency management,
- the scope and fulfillment of the state, authority and specialized authority responsibilities of telecommunication and civil frequency management,
- the definition of the general principles of frequency utilization,
- the modification of the division for civil and governmental purposes of the radio frequency domain.

(4) The chairman of the Council may invite the representatives of the organizations interested in the utilization of the frequency bands under inspection and the services performed with these, with the right of consultation.

(5) The Council has a quorum if more than one half of its members are present. It shall adopt its resolutions with a majority vote, and in the case of a tie in the votes, the chairman shall have the casting vote.

(6) The chairman of the Council shall be invited to the meeting of the Government when matters concerning frequency management are being discussed.

(7) The Council itself shall establish the order of its operation.

(8) The financial conditions of the operation of the Council shall be provided from the Telecommunications Fund.

(9) The financial management of the Council shall be controlled by the State Audit Office. The Council shall give an account of the fulfillment of its responsibilities to the competent committee of Parliament annually."

(4) Section 9, subsection (3) of FA shall be replaced by the following provision:

"(3) Frequency assignment for broadcast diffusion purposes may be provided for the beneficiary or the telecommunications service provider entering into a contract with the beneficiary in respect of broadcast diffusion, on the basis of rights arising from a broadcasting contract as defined by law."

(5) Section 12 of FA shall be complemented by the following paragraph *h*):

*(The radio licence shall be withdrawn if)*

"h) the broadcasting rights have terminated".

(6) Paragraph 14 of the Schedule to FA shall be replaced by the following provision:

"14. Broadcast diffusion: the forwarding of a one-way radio telecommunications procedure for sounds, images or signals of another nature performed with a surface or satellite system, intended for a theoretically unlimited number of users with adequate reception apparatuses."

*Section 160*

Section 1 of Act XL of 1995 on Public Procurement shall be complemented by the following paragraph *f*):

"f) public service broadcasters, and the public broadcasters, the majority of the operation of which is financed from public funds."

***Title 6***

**Provisions Ceasing to be in Force**

*Section 161*

Simultaneously with the coming into force of this Act, the following shall cease to be in force:

*a*) of Section 2, subsections (2) and (3) of PA the text part "and shall encourage social action", of Section 4, subsection (1) the text part "economic organizations [Section 685, paragraph *c*) of the Civil Code]"; Sections 9 and of the title preceding Section 12 the text part "Licensing"; Section 13, Section 14, subsection (2), in Section 14, subsection (1) and Section 15 the text parts "the refusal and withdrawal of licences"; Section 17, subsection (2); Section 19, subsections (4)-(6); of Section 22, subsection (3) the text part "or withdrawing the licence", and Section 23, subsections (2) and (3),

*b*) the text of Section 6 of Act XI of 1990 on the Amendment of Act II of 1986 on the Press establishing Section 14, subsection (2) of PA, and the text parts in Sections 6 and 7 concerning "the refusal and withdrawal of licences", and Sections 8 and 9,

*c*) Section 19 of Act LXVIII of 1992 on the Amendment of the Code of Civil Procedure,

*d*) Section 7 of Act III of 1994 on the Amendment of Act XXXIV of 1989 on the Election of Members of Parliament,

*e*)

*f*) Section 40, subsection (3) of TA,

*g*) Section 4 and of Section 6, subsection (1) of Decree No. 12/1986 (IV. 22.)MT on the Execution of Act II of 1986 on the Press the text part "in the case of other products of the press, the application for licensing shall be submitted by the publisher", and the text part referring to Section 4, of Section 6, subsection (2) the text parts "licensing or" and "and which organization's competence licensing falls into", of Section 7, paragraph *a*) the text part "subject", Sections 8, 11 and 12, of Section 13, subsection (1) the text parts "falling under licensing" and "received the licence or", Section 13, subsection (3), of Section 14 the text part "the licensing authority, the number of the licence", Sections 17 and 18,

*h*) Sections 7 and 8 of Decree No. 58/1989 (VI. 15.)MT on the Amendment of Decree No. 12/1986 (IV. 22.)MT on the Execution of Act II of 1986 on the Press,

*i*) Government Decree No. 110/1993 (VII. 30.)Korm. on the Licensing of the Foundation of Non-Commercial Local Radio and Television Broadcast Making and Broadcasting Studios, and Government Decree No. 142/1994 (XI. 10.)Korm. amending the above,

- j) Government Decree No. 68/1994 (V. 4.) on Authorizing Duna Television to Make and Transmit Television Broadcasts,
- k) Decree No. 2/1986 (IX. 1.)MTH on Local Independent Radio and Television Broadcast Making Studios,
- l) Decree No. 1/1993 (I. 22.)MKM on the Repeal and Amendment of Some of the Provisions of the Chairman of the Information Office of the Council of Ministers,
- m) Decree No. 8/1993 (VII. 30.)MKM on the Use of Printed Forms, and Decree No. 21/1994 (XI. 17.)MKM amending the above,
- n) Sections 6-9 and Sections 31-33 of Decree No. 7/1973 (XII. 27.)KPM on the Publication of the Radio and Television Rules, as amended several times,
- o) Decree No. 18/1993 (VII. 16.)KHVM on the Frequency Assignment, Radio Licensing and Operational Conditions of Local Radio and Television Broadcast Diffusion Stations, and Section 2 of Decree No. 10/1994 (III. 10.)KHVM amending the above,
- p) Resolution No. 1047/1974 (IX. 18.)MT on the Hungarian Radio and the Hungarian Television, and Resolution No. 1063/1983 (XII. 29.)MT and Decree No. 91/1990 (V. 2.)MT amending the above.

*Section 162*

The text part "820-11 The fee payable for the reception of the broadcasts of the Hungarian Television, the Minister of Finance" of the Schedule to Act LXXXVII of 1990 on the Fixing of Prices, as amended several times, shall cease to be in force.

*Schedule to Act 1 of 1996*

On taking up the office of member of the Board, members shall take the oath worded as follows before the Speaker of Parliament:

"I, ....., hereby do solemnly swear that as a member (chairman) of the National Radio and Television Board shall honour the Constitution and laws, and shall, true to my office, endeavour to enforce the freedom of speech and press. I shall fulfill my responsibilities impartially."