

Act no. 127 of 4 December 1992 relating to Broadcasting

(With subsequent amendments, most recently by Act No. 98 of 17 June 2005, entered into force from 1 July 2005)

Cf. *previous* Acts: No. 13 of 24 June 1933, No. 1 of 22 June 1962, No. 36 of 13 June 1980, No. 71 of 27 November 1987, No. 46 of 10 June 1988 and No. 77 of 21 December 1990.

Chapter 1 Definitions, scope of application etc

Section 1-1 Definitions

"Broadcasting" means the transmission of speech, music, images and the like by wire or over the air, intended or suitable for direct and simultaneous reception by the public.

"Local broadcasting" means the transmission of speech, music, images and the like by wire or over the air, intended for direct reception by the public within geographically delimited areas.

"Broadcaster" means the natural or legal person who has editorial responsibility for the composition of programme services in broadcast transmissions, and who transmits them or has them transmitted by third parties.

"Advertising" means any form of marketing of a product, service, cause or idea in return for payment or other form of consideration. "Advertising" also means any form of announcement on television whose purpose is to promote the broadcaster's own activity.

"Surreptitious advertising" means the verbal or visual presentation in programmes of a product manufacturer's or a service provider's products, services, trademark or business, where the presentation intentionally serves advertising purposes and the audience is liable to be misled about the nature of the presentation. Such presentation is regarded as intentional above all where it is in return for payment or similar consideration.

"Sponsorship" means any direct or indirect contribution made to the production or transmission of one or more programmes by a natural or legal person not personally engaged in the production or broadcasting of such programmes.

The King may decide cases of doubt under this Section. The King or whomever the King empowers may exempt a service entirely or in part from the provisions of the Act.

Section 1-2 Scope of application

This Act also applies to Svalbard, Jan Mayen, Island and the Norwegian dependencies, as well as to facilities and devices on the Norwegian part of the Continental Shelf. The King may issue regulations prescribing exemptions and special rules as required by local conditions.

Broadcasting from international territory is regulated by Chapter 9.

The King may issue regulations providing that this Act or parts of it shall apply to Norwegian vessels, aircraft, drilling platforms or other facilities or devices in international territory beyond what follows from the provisions of Section 9-1.

Chapter 2 General provisions

Section 2-1 Licensing requirement, licensing authority, registration requirement etc

The Norwegian Broadcasting Corporation is authorised to pursue broadcasting activities. Parties other than the Norwegian Broadcasting Corporation must hold a licence in order to engage in broadcasting or local broadcasting via a transmitting facility that is subject to licensing under Section 2-2. Licences shall be time-limited.

The Ministry issues licences for broadcasting and local broadcasting. Conditions may be attached to such licences, including that a fee shall be payable for a licence to engage in nationwide, advertisement-financed broadcasting. The King may issue regulations concerning the allocation of licences and concerning the terms and conditions of licences, inter alia on the operation and revocation etc of licences, on licence areas and ownership restrictions and on the determination and recovery of fees as mentioned in the second sentence above. The King may issue regulations concerning circumstances in which a broadcaster is required to comply with Norwegian broadcasting rules. The King may also issue regulations to fulfil Norway's international obligations.

In order to engage in broadcasting or local broadcasting which is not licensable under the first paragraph, the broadcaster must be registered with the public authorities. The King may issue regulations setting out further rules on the duty to register.

The Norwegian Media Authority is the administrative agency for broadcasting and local broadcasting etc. The Ministry may lay down further rules concerning the tasks of the Norwegian Media Authority.

The transmission of simple announcements does not require a licence.

Decisions made by the Norwegian Media Authority under Section 3-1 third paragraph, cf Sections 10-3 and 10-4, may be appealed to the Market Council. The procedural rules laid down in or pursuant to the Marketing Act shall be applied when appeals are dealt with.

Section 2-2 Facilities for broadcasting and retransmission of broadcasts

The establishment or operation of wireless, ground-based transmitting facilities which will mainly be used for broadcasting or local broadcasting or for the retransmission of broadcasts or local broadcasts requires a licence from the Ministry or from whomever the Ministry designates. Licences will be granted in conjunction with the allocation of frequency capacity pursuant to the Electronic Communications Act (No. 83 of 4 July 2003).

Conditions may be attached to the allocation of licences.

Section 2-3 Prior assessment of programmes

A person who has not contributed to or who has no responsibility for programmes may not demand to view or listen to a programme before it is broadcast.

The first paragraph does not restrict the right to issue orders or to decide on and implement coercive measures in accordance with the Court Procedure Act.

Section 2-4 Announcements by government authorities etc

Broadcasters shall, in accordance with rules laid down by the King, transmit announcements from government authorities where such announcements are of major importance.

The King may issue regulations concerning the activities of broadcasters in time of civil emergency and war.

Section 2-5 Recording of programmes

Broadcasters shall retain programme recordings for a period of at least two months after transmission. If a complaint has been brought concerning programme content etc pursuant to Chapter 5, the programme shall be retained until the complaint has been decided. The programme shall also be retained if notice of legal action has been given.

Broadcasters are obliged to surrender recordings of programmes to the bodies charged with overseeing compliance with provisions laid down in or pursuant to this Act.

Section 2-6 European television programme material

The King may issue further rules concerning broadcasters' use of European programme material on television, including rules concerning programme categories to which the rules apply, the definition of European programme material and the implementation of such rules.

Section 2-7 Protection of minors

The King may issue regulations to prohibit the transmission of television programmes which may seriously impair the physical, mental or moral development of minors, in particular programmes that involve pornography or gratuitous violence.

The King may issue regulations to the effect that television programmes containing scenes or items which may impair the physical, emotional or moral development of minors shall only be transmitted in periods when minors will not normally see or hear such broadcasts, and concerning other technical measures that prevent minors from seeing or hearing the broadcasts. The King may issue regulations requiring an acoustic and visual warning to be given when such programmes are broadcast in unencoded form.

Section 2-8 Events of major significance

A broadcaster who has purchased the exclusive right to televise events of major importance for society may not exercise such exclusive right in such a way as to deprive a substantial proportion of the public of the possibility of following such events on free television.

Where a broadcaster under Norwegian jurisdiction has purchased the exclusive right to televise events which a country that has acceded to the EEA Agreement has declared to be of major importance for society and which have been approved by the European Commission or EFTA's Surveillance Authority, the broadcaster may not exercise such exclusive right in such a way as to deprive a substantial proportion of the public in the country concerned of the possibility of following such events on free television

The first paragraph encompasses agreements on the exercise of exclusive rights entered into after 30 July 1997 in respect of events taking place after the commencement of this Act. The second paragraph encompasses agreements on the exercise of exclusive rights entered into after 30 July 1997 in respect of events taking place after the commencement of this Act and after a country that has acceded to the EEA Agreement has implemented provisions corresponding to the first paragraph of this Section.

The King may issue regulations containing further rules on the implementation of the first, second and third paragraph, including rules requiring the drawing up of a list of events that are of major importance for society and rules concerning the resolution of price conflicts.

Section 2-9 Compliance with rules established in accordance with the EEA Agreement's Broadcasting Directive

Any directly affected natural or legal person who is a citizen of or established in a State party to the EEA Agreement may approach the Norwegian authority concerned in matters concerning Norwegian broadcasters' compliance with provisions laid down to implement Council Directive 89/552/EEC and Parliament and Council Directive 97/36/EC.

The King may issue further regulations on the implementation of the first paragraph.

Section 2-10 Electronic programme guides

The King may lay down further rules on the operation and design of electronic programme guides or corresponding navigation tools.

Chapter 3 Advertising, sponsorship etc

Section 3-1 Duration, content

Advertisements shall in aggregate not exceed 15 per cent of the broadcaster's daily transmission time. The King may make exemptions from this provision for the broadcasting of information announcements on local television.

Advertisements may not be broadcast in connection with children's programmes, nor may advertisements be specifically directed at children.

Broadcasters may not broadcast advertisements to promote belief systems or political ends on television. This also applies to teletext services.

The King may issue further rules on the transmission, content, scope and supervision of advertising.

Announcements by the broadcaster in connection with his own programmes and ancillary products derived directly from such programmes shall not be included in the maximum amount of daily transmission time reserved for advertising under the first paragraph. The same applies to public service announcements and charity appeals broadcast free of charge.

The King may issue regulations containing further rules on the duration of announcements and items under the fifth paragraph, as well as rules prohibiting the interruption of programmes in order to broadcast other announcements or excerpts from other programmes.

Section 3-2 Special rules on television advertising

Television advertisements shall as a rule be broadcast in blocks between programmes and shall be kept quite separate from the ordinary programme schedule by a special acoustic and visual signal.

The King may issue further regulations concerning the insertion of advertising.

Section 3-3 Prohibition of surreptitious advertising

The broadcaster shall not broadcast items containing surreptitious advertising.

Section 3-4 Sponsorship

Where a programme is sponsored, information to this effect shall be given prior to and/or after the programme. Information about the sponsor may be given in the form of the name, trademark or logo of the sponsor.

The content and form of presentation of a sponsored programme must be such as to maintain the full editorial integrity of the broadcaster.

Sponsored programmes shall not encourage the purchase or rental of any of the sponsor's products or services or those of a third party, and shall not for this purpose contain specific promotional references to such products or services, cf. however section 3-5.

News and current affairs programmes may not be sponsored.

Broadcasting programmes may not be sponsored by natural or legal person whose principal activity is to manufacture, sell or hire out products or services the advertising of which is prohibited by Norwegian legislation or rules issued pursuant to Norwegian legislation. Political party organisations may not sponsor broadcasts.

The King will issue further regulations on the sponsorship of programmes, including rules on sponsorship of programmes broadcast by the Norwegian Broadcasting Corporation.

Section 3-5 Prizes in broadcasting programmes

In programmes involving prizes, sections 3-3 and 3-4 are not applicable to the presentation of a prize so long as such presentation does not include information extending beyond that which is reasonably required to inform the audience about the prize. The presentation must not include information about the donor or about other products of the donor. Oral information about the donor's identity is nonetheless permitted. Caution shall in particular be shown when presenting prizes in children's programmes.

The King may issue further regulations concerning the elaboration of prize presentations.

Chapter 4 Retransmission via broadcasting networks etc

Section 4-1 **Scope of application**

The provisions of this chapter do not apply to cable networks limited to 25 buildings and/or 100 households.

Section 4-2 **Right to retransmission**

Simultaneous and unaltered retransmission by way of cable networks of broadcasts sanctioned by law does not require a special licence.

Agreements concerning the retransmission of satellite broadcasts shall contain a clause to the effect that Norwegian cable networks may join the agreement on equal terms.

The owner or operator of a cable network may transmit information concerning the operation of the network or the programme services offered.

Section 4-3 **Duty to retransmit etc**

The King may issue regulations to the effect that certain broadcasts shall be retransmitted through networks able to transmit broadcasting. The King may issue rules on the further conditions for such transmissions. The Norwegian Media Authority may in special cases reduce the number of broadcasts to which the retransmission duty applies.

The owner or operator of the cable network shall, in accordance with rules prescribed by the King, transmit announcements from government authorities when it is of major importance to do so.

Section 4-4 **Choice of broadcasting transmissions**

The cable subscribers may decide which broadcasts are to be retransmitted through the cable network in addition to broadcasts to which the retransmission duty applies under Section 4-3.

The owner or operator of the cable network shall inform the subscribers of available broadcasts and of the conditions governing the reception and transmission of such broadcasts.

If the choice of broadcasts to be retransmitted across the cable network has not been made in compliance with provisions contained in or issued pursuant to this Act, the Norwegian Media Authority may order the owner or operator of the cable network to arrange for a new choice to be made.

The King may issue regulations concerning procedures etc to be followed when making a choice of broadcasts.

Section 4-5 **Prohibition of retransmission**

The Norwegian Media Authority may by regulations or individual decision prohibit the retransmission of television channels which

- a) broadcast advertising in breach of Norwegian law,
- b) broadcast programmes containing pornography or violence in breach of Norwegian law or other programmes which may seriously impair the physical, mental or moral development of minors.
- c) broadcast programmes which may cause harm to children or young people, when retransmission takes place at a time of day when children or young people constitute a substantial proportion of the viewers, or
- d) broadcast programmes which Norwegian courts have deemed to be in breach of Section 135 a of the General Civil Penal Code.

The Norwegian Media Authority may by regulations or individual decision prohibit the sale, rental or marketing of devices or services essentially designed to give access to television channels or programmes as mentioned in the first paragraph b) or d).

The King may issue further regulations concerning exemptions from the prohibition in the first paragraph a). The King may issue further regulations on procedures etc to be followed when imposing prohibitions under the first and second paragraph.

Chapter 5 Rectification

Section 5-1

Any natural or legal person whose rightful interests have been infringed by factually incorrect information presented in a broadcast programme shall be entitled to rectify the assertions made. A claim regarding rectification must be presented to the broadcaster concerned not later than three months from the date on which the programme was broadcast. A claim for rectification may be rejected if endorsing the claim would entail a criminal act or involve the broadcaster in liability.

The right pursuant to the first paragraph applies to broadcasters under Norwegian jurisdiction.

Chapter 6 The Norwegian Broadcasting Corporation

Section 6-1 Organisation, ownership, purpose etc

The Norwegian Broadcasting Corporation is a private limited liability company. Except as otherwise provided in this Act, the Private Limited Companies Act applies to the Norwegian Broadcasting Corporation.

The State shall hold all shares of the Norwegian Broadcasting Corporation.

The object of the Norwegian Broadcasting Corporation is to provide public service broadcasting and related activities. The Norwegian Broadcasting Corporation may participate in other activities through subsidiaries. The King may issue regulations containing further rules on accounting matters between the Norwegian Broadcasting Corporation and subsidiaries.

Section 6-2 Board of Directors

The Board of Directors has no authority in regard to current programme activities.

The members of the Board of Directors may participate in the deliberations of the Broadcasting Council.

Section 6-3 Director General of Broadcasting

The Director General is the chief executive officer of the Norwegian Broadcasting Corporation and is responsible for current programme activities.

The Director General participates in the deliberations of the Broadcasting Council. The Director General may also participate in the deliberations of the regional programme councils.

Section 6-4 Financing etc

The Norwegian Broadcasting Corporation's activities are financed by licence fees, sales revenues etc. The activities cannot be financed by advertising on the Norwegian Broadcasting Corporation public service channels. The Norwegian Broadcasting Corporation's teletext services are not regarded as part of its public service provision. The King may issue regulations containing further rules on advertising on the Corporation's teletext services. Licence fees are determined by the Storting.

Section 6-5 (Revoked by Act No. 32 of 22 May 1998, with effect from 1 June 1998.)

Chapter 7 Broadcasting Council and Regional Programme Councils

Section 7-1 Function of the Broadcasting Council

The Broadcasting Council shall discuss and express its opinion on the general programme policy of the Norwegian Broadcasting Corporation.

The Broadcasting Council shall express its opinion on programme matters submitted to it by the Director General, or on programme matters which the Council itself sees reason to take up.

The Board of Governors and the Director General may invite the Council to give its opinion in administrative and financial matters.

The King may issue instructions to the Broadcasting Council.

Section 7-2 Composition of the Broadcasting Council

The Broadcasting Council comprises 14 members, each with a personal alternate. The Storting appoints eight members, one of whom shall be the Director of the Sámi Programme Council. Six members, including the Chair and the Deputy-Chair, are appointed by the King.

The members are appointed for a term of four years. A member may be reappointed for one term only.

The Chairman, or a member authorised to represent him, may attend the Board of Directors' meetings and take part in its deliberations.

Section 7-3 Regional Programme Councils

The Regional Programme Councils shall express their opinion on the general programme policy of the Regional Offices and on programme matters which the Director General or the Director of the Regional Office concerned submits to the Council, or which the Council itself sees reason to take up.

The Director General and the Director of the Regional Office may invite the Council to express its opinion on administrative and financial matters.

A programme council shall be appointed for each Regional Office.

The Regional Programme Councils comprise five members, each with a personal alternate, who are appointed for a term of four years by the County Authority. A member may be reappointed for one term only. The King may issue rules concerning the appointment and composition of Regional Programme Councils in cases where a Regional Office serves more than one county.

The King may issue further rules on the functions and procedure of the Regional Programme Councils.

Chapter 8 Sale of equipment, fees and charges, recovery etc

Section 8-1 Right to possess television and radio receivers

Any person is entitled to possess a television or radio receiver.

The transfer of a television or radio receiver from one person to another shall be reported to the Norwegian Broadcasting Corporation. The King may issue regulations concerning the reporting requirement and exemptions from this requirement.

Section 8-2 Importation and sale etc of television and radio receivers

The importation and domestic sale, rental or lending of television and radio receivers, including aerials, shall be reported to the Norwegian Broadcasting Corporation. The King may issue regulations concerning the reporting requirement and exemptions from this requirement.

The King may issue regulations attaching such conditions to importation and sale etc as mentioned in the first paragraph, as are deemed necessary to ensure that television and radio receivers etc are of a reasonable technical standard.

Checks may be carried out to verify compliance with the reporting requirement of the first paragraph. To this end, and to the extent deemed necessary, access may be requested to recorded accounting information, accounting materials, agreements and other documents of significance for compliance checks, and to the premises where dutiable equipment is manufactured, stored or sold.

The Ministry issues regulations on control procedures.

Section 8-3 Licence fees and additional charges

The Storting determines licence fees for the possession of television and radio receivers and additional charges in the event of overdue payment and failure to report pursuant to the rules of Section 8-1 second paragraph.

The King may issue regulations on the recovery of fees and interest on overdue payments.

The King may, by regulations or individual decision, grant complete or partial exemption from the payment of fees or and interest when there are special reasons for doing so.

Section 8-4 Security for and recovery of fees and charges etc

Overdue licence fees and additional charges are secured by a charge taken over the receiver and accessories or parts. Except in cases where Act No. 37 of 2 June 1978 relating to good faith acquisition of chattels applies, the said charge ranks above all other rights to the object, even where the object is transferred to a new owner. Should the charge become void under the provisions of the Act relating to good faith acquisition of chattels, it passes to any subsequent television or radio receiver etc that the debtor acquires. However, this charge ranks below a valid vendor's lien.

In addition to constituting grounds for forced sale under Chapter 8 of the Enforcement Act, overdue secured claims also constitute grounds for delivery up under Chapter 13 of the Enforcement Act. In such case the receiver etc may be sold in order to pay the secured claim in such manner as is provided by regulations issued by the King.

Overdue licence fees and additional charges also constitute grounds for execution.

In the event that the State Agency for the Recovery of Fines, Damages and Costs is instructed to recover a claim as mentioned in the third paragraph, it may do so by making deductions in pay or other similar remuneration under the rules of Section 2-7 of the Satisfaction of Claims Act. The State Agency for Recovery of Fines, Damages and Costs may also recover such a claim by establishing an execution charge provided the security interest can be perfected by its registration in a register or by notification to a third party, cf Chapter 5 of the Mortgages and Pledges Act, and the execution proceedings can be held at the offices of the State Agency for the Recovery of Fines, Damages and Costs under Section 7-9 first paragraph of the Enforcement Act.

Chapter 9 Illegal broadcasting from ships and aircraft operating in international territory etc

Section 9-1 Prohibition of broadcasting etc

It is prohibited to establish or engage in broadcasting on board ships, aircraft etc, and on any facilities operating in or in the airspace above international waters if the broadcast is liable to be received in Norway, Denmark, Finland or Sweden or any other State signatory to the European Agreement of 22 January 1965 for the Prevention of Broadcasts transmitted from Stations outside National Territories, or if it interferes with radio reception in the said countries. Radio reception encompasses broadcasting as well as radio navigation, air navigation etc.

Section 9-2 Prohibition of complicity etc

Complicity in the passage through, or the presence in, Norwegian territory – including sea and air territory – of ships, aircraft etc, or facilities or devices of any kind that are used or are intended to be used for broadcasting in or in the airspace above international waters, even when the broadcasts are not of the type mentioned in

Section 9-1, is prohibited. This prohibition does not apply where an emergency situation makes it absolutely necessary to enter Norwegian territory in order to save human lives, a vessel or cargo.

Section 9-3 Regulations prohibiting complicity

The King may issue regulations prohibiting complicity in Norwegian territory – including sea and air territory – in broadcasting in or in the airspace above international waters, including prohibiting the establishment or operation of offices for such activity, the contribution of financial or technical assistance, the engaging in advertising or promotion and the supply or transportation of equipment, materials, audio tapes etc.

Regulations as mentioned in the first paragraph may also prohibit complicity outside Norwegian territory insofar as such complicity involves activities prohibited under Section 9-1.

Chapter 10 Penalties, entry into force of the Act etc

Section 10-1 Penalties

A person shall be liable to fines or imprisonment for a term not exceeding six months if he, intentionally or through negligence, grossly or repeatedly infringes the provisions of Section 2-1 first or third paragraph, Section 2-4, Section 2-7, Section 3-1 second paragraph, Section 4-5 first paragraph b) and d), and Chapter 9 or regulations or individual decisions issued under these provisions. Complicity is subject to the same penalties.

Where the infringement has been committed further the interests of the undertaking, or the undertaking has benefited from the infringement, this should be regarded as an aggravating circumstance for the purpose of sentencing pursuant to the first paragraph.

Infringement or complicity in the infringement of provisions issued in or pursuant to Chapter 9, cf. Section 10-1 first paragraph, is punishable irrespective of the limitations imposed by Sections 12, 12 a) and 13 first and second paragraphs of the General Civil Penal Code. Only nationals or residents of Norway, Denmark, Finland or Sweden may be held criminally liable for infringement of regulations issued pursuant to Section 9-3.

Infringements of penal provisions in this Section are deemed to be misdemeanours.

Section 10-2 Warning

Where an infringement of this Act or of provisions or conditions laid down pursuant to this Act has been committed, the Norwegian Media Authority may issue a warning to the person responsible for the infringement.

Section 10-3 Financial penalty

The Norwegian Media Authority may upon infringement of the provisions of Chapter 2 and 3 and Section 6-4, Section 8-1 and Section 8-2 or regulations or individual decisions issued under these provisions, impose on the person responsible for the infringement a financial penalty payable to the State, calculated in accordance with further rules prescribed by the King.

The King may issue rules concerning an increased penalty in the event of repeated infringement. The Norwegian Media Authority may in special circumstances waive an imposed financial penalty.

Any financial penalty imposed constitutes grounds for execution. The King may issue further rules concerning the implementation of the provisions of this Section, including rules on recovery and time-limits for payment. Payment of interest on a financial penalty may be imposed.

Section 10-4 Coercive fines

In order to ensure compliance with requirements under the provisions of Chapter 2, 3 and 4 and Section 6-4, Section 8-1 and Section 8-2 or regulations or individual decisions issued pursuant to these provisions, the Norwegian Media Authority may impose a coercive fine on the person responsible for compliance.

The coercive fine may be imposed as a cumulative daily penalty or as a lump-sum fine. In the case of a cumulative daily penalty the Norwegian Media Authority may decide that the fine shall start to run either one week after the date of the decision to impose a coercive fine, or as from a date specifically set for compliance with the requirement if this date has elapsed without the requirement being complied with. In the case of a coercive fine in the form of lump-sum fine the Norwegian Media Authority may decide that the fine shall be paid by a date specifically set for compliance with the requirement if this date has elapsed without the requirement being complied with.

Coercive fines accrue to the Treasury and constitute grounds for execution.

The Norwegian Media Authority may in special cases reduce or waive an accrued coercive fine.

The King may issue further regulations on the imposition of coercive fines, including on conditions for coercive fines and on the size of coercive fines and interest on overdue payments.

Section 10-5 Time-limited prohibition of the broadcasting of advertisements, revocation of licence etc

Where a provision of Chapter 3 or of regulations laid down pursuant to Chapter 3 has been infringed by someone acting on behalf of a broadcaster, the Norwegian Media Authority may prohibit that company from broadcasting advertisements for a time-limited period.

In the event of repeated or serious infringement of this Act or of provisions or conditions laid down pursuant to this Act committed by someone acting on behalf of a person or undertaking that has been granted a licence pursuant to Section 2-1 or Section 2-2, the Norwegian Media Authority may revoke the licence. Such revocation may be time-limited.

The King may issue further rules concerning decisions to prohibit advertising and the revocation of licences, including rules on the broadcaster's duty to provide information.

Section 10-6 Entry into force of the Act etc

This Act shall enter into force in whole or in part on the date decided by the King.