

ACT
of 25th April 2006,

**which amends Act No. 231/2001 Coll., On Radio and Television Broadcasting Operation
and Amendments to Other Acts, as amended, and certain other Acts**

Parliament has passed this Act of the Czech Republic:

PART ONE
Amendments to the Act on Radio and Television Broadcasting Operation

Article I

Act No. 231/2001 Coll., on Radio and Television Broadcasting Operation and Amendments to Other Acts, as amended by Act No. 309/2002 Coll., Act No. 274/2003 Coll., Act No. 341/2004 Coll., Act No. 501/2004 Coll., Act No. 626/2004 Coll., Act No. 82/2005 Coll., Act No. 127/2005 Coll. and Act No. 348/2005 Coll., is amended as follows:

1. Section 2, Paragraph 1, Point a) including Footnotes Nos. 1 and 1a reads as follows:
- “a) Radio and television broadcasting shall mean primary dissemination of original radio and television programmes and services directly related to these programmes, including teletext from analogue television broadcasting, which are intended to be received by the general public in the form of protected or unprotected conditional access systems^{1), 1a)} via electronic communications networks¹⁾,

¹⁾ Act No. 127/2005 Coll., on Electronic Communications and Amendments to Certain Related Acts (the Electronic Communications Act), as amended.

^{1a)} Act No. 206/2005 Coll., on the Protection of Certain Radio and Television Broadcasting Services and Information Society Services.”.

The previous Footnotes Nos. 1 and 1a are denoted as Footnotes Nos. 1b and 1c as are the references to these Footnotes.

2. Section 2, Paragraph 1, Point b) reads:
- “b) Retransmission of radio and television broadcasts shall mean reception of broadcasted original radio and television programmes or their substantial part, including services directly related to such programmes or their substantial part, and their simultaneous, complete and unchanged dissemination for the general public via electronic communications networks¹⁾; unchanged dissemination shall also mean the dissemination of Czech versions of television programmes which were primarily broadcast in foreign languages,”

3. In Section 2, Paragraph 1, Point c) the words “to a defined territorial area” are inserted after the words “which may”.

4. At the end of the text of Footnote no. 1c the words “and Section 3, Paragraph 4, Act No. 484/1991 Coll., as amended” are added.

5. In Section 2, Paragraph 1, a new Point e) is inserted after Point d), which reads as follows:

- “e) Regional broadcasting shall mean radio and television broadcasts, which may, in a defined territorial area, be received by more than 1% and less than 70% of the population of the Czech Republic, calculated using data from the last Census^{1b)}”.

The existing Points e) to i) are denoted as Points f) to j).

6. In Section 2, Paragraph 1, at the end of the text of Point f) the comma is replaced by a semicolon and the words “locally defined areas must not include more than 1% of the population of the Czech Republic, calculated using data from the last Census^{1b)}”.

7. In Section 2, Paragraph 1, Points g) and h) read:

- “g) A radio or television broadcaster shall mean a legal entity or natural person that prepares programmes, including services directly related to such programmes, who bears responsibility for their content and who disseminates these programmes and the directly related services themselves or via third parties, using audio or visual identification, which uniquely identifies them, (hereafter only the "Broadcaster"),
- h) Retransmission broadcaster shall mean a legal entity or natural person who decides on the composition of retransmitted programmes, including any directly related services and who disseminates such programmes and directly related services either themselves or via third parties completely and unchanged on the basis of authorisation to broadcast retransmission broadcasts (hereafter only “Registration”) pursuant to this Act.”.

8. In Section 2, Paragraph 1, a new Point k) is inserted after Point j), which reads as follows:

- “k) Full format programme shall mean television programmes which contain programmes with various types of subject matter and genres, in particular news, film, documentary, music and educational programmes, which are not aimed solely at a specific population group which has compatible interests.”.

The previous Points j) to l) are denoted as Points l) to n).

9. In Section 2, Paragraph 1, Point m) the words “analogue television broadcasting” are inserted after the word “signals”.

10. New Points o) and p) are inserted in Section 2, Paragraph 1 after Point n), which reads as follows:

- “o) A service directly related to a programme shall mean a service which disseminates text, audio or visual information, which either individually or as a whole creates content related to a digitally disseminated programme, and which is intended to be received by the general public together with this programme; directly related services are also understood as being the creation and provision of data files for electronic programme guide content and services which increase the utilisation options for the programme by an end-user’s equipment,
- p) Electronic programme guide content shall mean text, audio or visual information on programmes disseminated in electronic communications networks¹⁾, which are disseminated by the same electronic communications networks and are synchronically connected to these programmes.”.

The previous Points m) to u) are denoted as Points q) to x).

11. Section 2, Paragraph 1, Point v) reads:

- “v) Cable systems shall mean an electronic communications network pursuant to special laws¹⁾, by which broadcasters or retransmission operators disseminate pre-paid programmes for an agreed price; cable systems include cable television networks, microwave systems for terrestrial radio and television broadcasting or other technical equipment except for terrestrial radio broadcasting equipment.”.

12. In Section 2, Paragraph 1, Point w) the words “terrestrial broadcasting” are replaced by the words “analogue broadcasting via terrestrial radio broadcasting equipment (hereafter only “transmitters”).”.

13. In Section 2, Paragraph 1 the full stop at the end of the text of Point x) is replaced by a comma and Point y) is added which reads as follows:

- “y) The territorial area of broadcasting shall mean the whole territory of the Czech Republic for nation-wide broadcasting, and for regional or local broadcasting it shall mean the area set out in the authorisation for radio and television broadcasting (hereafter only the “licence”) in compliance with the opinion of the Czech Telecommunication Office defined by;
 1. the technical parameters file, in the case of analogue broadcasting disseminated by transmitters,
 2. the plan of frequency band allocations,¹⁾ in the case of digital broadcasting disseminated via transmitters.”.

14. Section 2, Paragraph 2, Point b), reads:

- “b) Providing electronic communications networks and providing electronic communications services pursuant to special laws¹⁾,”.

15. In Section 2, Paragraph 2, Point c) the words “and services directly related to the programmes” are inserted after the words “television programme”. The words “authorisation

to operate radio and television broadcasting (hereinafter only "licence"), awarded" are replaced by "awarded licence", and "protected conditional access system" replaces "encoded signal".

16. In Section 2, Paragraph 2, the full stop at the end of the text of Point d) is replaced by a comma and a new Point e) added, which reads as follows:

"e) Broadcasting via remote access (Internet)."

17. In Section 2, Paragraph 3 the words "radio and television" are inserted after "for retransmission" and "including services directly related to the programme" are inserted after "television programmes".

18. In Section 2, Paragraph 4 "programme" is inserted after the word "and" and "pursuant to this Act" is deleted.

19. The second sentence in Section 3a, Paragraph 1 is replaced by: "If the legal person is a joint stock company a pre-condition for obtaining a license is that their shares are registered shares."

20. In Section 5, Point e) the text "and the overviews of frequency utilisation intended for radio and television broadcasting" are deleted.

21. In Section 5, Point g) the words "radio and television content" are inserted after "monitors".

22. Section 5, Point h) reads:

"h) Grants an agreement to the Czech Telecommunication Office to issuing individual authorisation to use radio frequencies for other radio communications services from sections of the frequency spectrum exclusively reserved for radio and television broadcasting."

23. Section 5, Point i) reads:

"i) Requires an opinion from the Czech Telecommunication Office containing coordinated frequencies for analogue radio and television broadcasting, including their technical parameters; in its request for an opinion the Council will denote the area which should be covered by the transmission and the requested location of the transmitters,".

24. Section 5, Point j) reads:

"j) Requires the opinion of the Czech Telecommunication Office for the process of awarding licences for broadcasting or for changes to licence conditions¹⁾; in its request

for an opinion the Council will denote the area which should be covered by the transmission,”.

25. In Section 5, new Points k) and l) are inserted after Point j), which reads as follows:

- “k) Shall set the territorial area of broadcasting for broadcasters pursuant to Section 3, Paragraph 1, Point b) in compliance with the opinion of the Czech Telecommunication Office,
- l) Shall work with the Czech Telecommunication Office to the extent set out in the special laws^{1), 3), 4)}“.

The previous Point k) is denoted as Point m).

26. In Section 5, a new Point n) is added after Point m), which, including the Footnote No. 4, reads as follows:

- “n) Sets programmes and services directly related to these programmes which must be disseminated in the public interest via electronic communications networks for radio and television broadcasting and shall also look into the duration of such compulsory dissemination, and shall submit a binding opinion to the Czech Telecommunication Office for the purposes of laying down or cancelling this compulsory dissemination pursuant to special laws^{4e)},

^{4e)} Section 72, Act No. 127/2005 Coll.”.

The previous Points i) to p) are denoted as Points o) to t).

27. In Section 5 Point t) the word “thereby” is deleted.

28. In Section 6, Paragraph 1 the words “including information on the procedure for the transition to digital broadcasting” are added to the end of the text of Point b).

29. In Section 6, Paragraph 1 Point h) is deleted.
The previous Point i) is denoted as Point h).

30. In Section 7 at the end of paragraph 1 the sentence “Membership of the Council is a public sector function.” is added.

31. In Section 7 the following sentence is added at the end of Paragraph 12: “Members of the Council must not have an employment or other similar relationship with broadcasters.”.

32. In Section 12, Paragraph 1 the text “via analogue television broadcasting” is inserted after “disseminating teletext”.

33. In Section 12 Paragraph 2 reads:

“(2) a separate licence for broadcasting teletext via analogue television broadcasting and for providing services directly related with programmes via digital broadcasting may not be awarded.”.

34. In Section 13, Paragraph 2 the text “set out in Section 3, Paragraphs 2 to 4” is replaced by “fulfilling the conditions pursuant to Section 3a”.

35. In Section 14, Paragraph 1, Point f) reads:

“f) The time schedule of broadcasting and the territorial area of the broadcasting,”.

36. In Section 14, Paragraph 1, Point g) the word “information” is replaced by the word “information (pl)” and the text”, and information on any services directly related to the programme” is added at the end of this Point.

37. Section 14, Paragraph 1, Point i) reads:

“i) Business plan, including documentary evidence of the finances which they are capable of spending on radio and television broadcasting.”.

38. Section 15, Paragraph 1 reads:

“(1) The Council will commence licence procedures by its own instigation or on the instigation of candidates for licences by announcing the licence procedure. Before it commences the licence procedures the Council will request the opinion of the Czech Telecommunication Office on the definition of the territorial area of the broadcasting in the manner set out in Paragraph 2. If the licence procedure involves one or more licences to broadcast one or more programmes disseminated only by digital transmission it will also request the Czech Telecommunication Office opinion on the options for placement within electronic communications networks; in the event that instigation for a licence comes from a candidate, the Council is obliged to request the necessary opinion from the Czech Telecommunication Office at the latest within 15 days of the date when the notice of instigation is received. The Council will announce the licence procedure at the latest within 30 days of the date it receives from the Czech Telecommunication Office the opinion which enables the licence process to commence; if the Council requests more than one opinion from the Czech Telecommunication Office for a given licence procedure, the 30 day deadline will start running from the date it receives the last of the requested opinions, if this is an opinion which enables the licence procedure to commence.”

39. In Section 15, Paragraph 2, the first sentence is replaced by: “In its announcement of a licence procedure the Council will set the deadline and location for submitting requests for licences, the time schedule of the broadcasting, the territorial area of the broadcasting

determined by the set of technical parameters for analogue broadcasting or the plan of radio frequency utilisation for digital broadcasting; for nation-wide broadcasting the Council will set the requirements for basic programme specifications for the nation-wide broadcasting (hereafter only the “Requirements”).”

40. In Section 15, Paragraph 5 is expanded to read:

“(5) In the event of the existence of two or more electronic communications networks for digital broadcasting pursuant to Paragraph 1, the Council will commence the licence procedure without allocating the programme to a specific electronic communications network. The Council will similarly not determine the programme structure for separate electronic communications networks.”

41. Section 16, Paragraph 1 reads:

“(1) If a licence procedure involves broadcasts via only digital transmitters, the Chairman of the Council will call a public hearing within 30 days of the date the deadline for submitting applications for licences expires. This last deadline will be set by the Council pursuant to Section 15, Paragraph 2. In other cases the Council Chairman will call public hearings within a 90-day deadline from the date the licence procedure commences.”

42. In Section 16, the following will be added at the end of the text of Paragraph 4: “in such a way that they are compliant with the opinion of the Czech Telecommunication Office.”

43. In Section 16, Paragraph 5, Point c) the text “defined in relation to the individual participants of the licence procedure” is deleted.

44. In Section 17 a new Paragraph 2 is inserted after Paragraph 1, which reads as follows:

“(2) During the distribution of licences for digital broadcasting the Council will assess the following:

- a) The financial, organisational and technical preparedness of applicants for providing broadcasts; the transparency of their ownership structures; the benefits the programme make-up will bring to the diversity of the existing range of programmes and the representation of European productions (Section 42), productions by European independent producers and the prevalent productions (Section 43) in the proposed programme make-up of the television broadcasts,
- b) The benefits the applicants will bring to the development of original productions,
- c) The applicants’ preparedness to provide a certain percentage of broadcast programmes with hidden or open subtitles for the hard of hearing,
- d) The benefits the applicants will bring to the development of the culture of national, ethnic and other minorities in the Czech Republic.”

The previous Paragraph 2 is denoted as Paragraph 3.

45. Section 17 is completed by a new Paragraph 4, which reads:

“(4) Licences for radio or television broadcasting disseminated solely by digital transmitters or registrations to operate retransmissions disseminated only digitally [Section 2, Paragraph 1, Point g), Section 26 and subsequent] may not be awarded to entrepreneurs who provide electronic communications networks¹⁾ (hereafter only “electronic communications network entrepreneurs”) or to groups of electronic communications network entrepreneurs or persons who are financially or personally connected to such entrepreneurs; this does not apply in cases where radio and television broadcast licences for only digital dissemination are awarded directly by law. Financially or personally connected persons are understood as persons who either directly or indirectly share in the management, control or assets of second parties, or if the same legal entity or natural person directly or indirectly shares in the management, control or assets of both parties. Participation in control or assets is understood as ownership of a more than 20% share in registered capital or voting rights; the share in registered capital or voting rights in a tax period is set as the share of the aggregate status as of the last day of each month and the number of months in the tax period.”.

46. In Section 18, Paragraph 4 the following is added at the end of the text of Point b): “and notification of whether the programme will be disseminated nation-wide, regionally or locally.”.

47. In Section 18, Paragraph 4 Point c) reads:

“c) The time schedule of broadcasting, the territorial area of broadcasting pursuant to Section 2, Paragraph 1, Point y),”.

48. In Section 18, Paragraph 4 Point e) reads:

“e) Basic programme specifications and other programme conditions, including information on if it is a case of a full format programme; in the case of digital broadcasting, also the conditions related to the broadcaster’s obligation to create and provide data files for electronic programme guide content and conditions related to the provision of any services directly related to the programme,”.

49. Section 20 including the title reads:

“Section 20
Changes to Sets of Technical Parameters and Plans

(1) The Council may restrict the transmission technical parameters of licensed broadcasters or statutory broadcasters who, after they have commenced broadcasting, have not broadcast in the given areas for more than 90 days or who have not used the allocated frequency band effectively during the course of a calendar year; this period does not include periods when broadcasting or effective frequency band utilisation is hindered by justified technical problems.

(2) The Council may change technical parameters for analogue broadcasting and the plan of radio frequency utilisation for regional and local digital broadcasting on the basis of decisions taken by the Czech Telecommunication Office pursuant to special laws¹⁾ in order to uphold commitments arising from international agreements binding to the Czech Republic, which are listed in the Collection of Acts or the Collection of International Agreements, or from membership of the European Union or international organisations.

(3) The Council is not authorised to change the technical parameters or radio frequency utilisation plan without the broadcaster's consent in any way other than that set out in Paragraphs 1 or 2.

(4) The Council will accommodate written requests from licensed broadcasters for changes to the technical parameters for analogue broadcasting or the radio frequency utilisation plan for regional or local digital broadcasting unless such changes lead to the breaching of Czech Republic's commitments arising from international agreements which have been listed in Collection of Acts or the Collection of International Agreements or from its membership of the European Union or other international organisations, and if such changes are in accordance with the opinion of the Czech Telecommunication Office, which the Council has requested before implementing the changes. The Council will refuse such requests if the changes would lead to a licence not being awarded from a public hearing. The reasons for not agreeing to requests must be compliant with the criteria set out in Section 6, Paragraph 1, Point e). The Council is obliged to make a decision on any changes pursuant to this Paragraph within 60 days of the date when the licensed broadcaster's request is received. If the council has not taken a decision within this period it is understood that it has expressed its agreement with the changes. The Council may suspend this procedure if there is a need to remedy shortcomings in the request during the deadline period or if preliminary question proceedings have been commenced¹⁰⁾. In such cases the Council will state what such issues may be in its decision to suspend the process; the deadline period will not run during the time a process is suspended."

50. Section 21, Paragraph 1 Point b) reads:

"b) Changes to the time schedule of broadcasting or the territorial area of broadcasting pursuant to Section 2 Paragraph 1 Point y),".

51. Section 21, Paragraph 5 reads:

"(5) The Council may also change licence conditions if this is necessary in order to uphold commitments arising from international agreements which are binding to the Czech Republic and which are listed in the Collection of Acts or the Collection of International Agreements, or from membership of the European Union or other international organisations."

52. In the last sentences of Paragraphs 6 and 7 of Section 21 the number "2" is replaced by "5".

53. Section 24a is deleted.

54. At the end of the text in Paragraph 5, Section 25 the following text is added: “or if awarding the licence would be in contravention of commitments arising from international agreements which are binding for the Czech Republic and which have been listed in the Collection of Acts or the Collection of International Agreements.”.

55. In Section 26, Paragraph 1 reads:

“(1) Registration authorises retransmission operators transmitting via electronic communications networks to operate using the respective electronic communications network except for broadcasts disseminated via terrestrial radio transmission equipment. This does not prejudice their obligations pursuant to special laws.”.

56. Section 27, Paragraph 2 reads:

“(2) The application for registration shall contain the information set out in Section 14, Paragraph 1, Points a) to e) and also; the technical, organisational and financial manner in which the retransmission will be provided; information on the programmes the applicant intends to disseminate, and the technical specifications of the electronic communications network which will be used to carry out the retransmission. Retransmission Applicants must also submit authorisation to broadcast issued by the broadcaster of the original programme.”.

57. New points i) and j) are inserted in Section 32, Paragraph 1 after Point h) which read:

- “i) Not include programmes which could promote prejudicial stereotypes of ethnic, religious or racial minorities;
- j) Not include programmes and advertisements which contain vulgarisms or swearing, except for artistic spots where it is necessary considering the context; such programmes or advertisements may only be broadcast between 22.00 and 06.00 the following day,”.

The previous Points i) to o) are denoted as Points k) to r).

58. In Section 32, Paragraph 1, Point r) “Point n)” is replaced by “Point p)”.

59. At the end of Paragraph 1 of Section 32 the full stop is replaced by a comma and Point s) is added, which reads:

- “s) Notify the Council of the electronic communications network¹⁾, via which the programme is disseminated.”.

60. In Section 47, Paragraph 1 at the end of Point c) the full stop is replaced by a comma and Point d) is added, which reads:

- “d) Information on the number and length of Czech programmes.”.

61. In Section 49, Paragraph 1 reads:

“(1) The Broadcaster is authorised to insert commercials and teleshopping spots in programmes made up of self-standing parts or into sporting events and similarly structured events and occasions which contain breaks, however only in between these parts or breaks. If a sporting event or similarly structured event or occasion does not have breaks then Paragraphs 2 and 4 shall apply for the insertion of commercials by licensed Broadcasters.”.

62. In Section 53, Paragraph 1 “identifying” is inserted after “services”.

63. Section 53 has an added Paragraph 6, which reads:

“(6) Television and radio programme sponsoring by legal entities or natural persons whose business involves the manufacture or distribution of medicines or medical treatments must not promote medicines or treatments which require doctors’ prescriptions in the Czech Republic.”.

64. The text “SPECIAL AUTHORISATION AND” is deleted from the title of Heading V in Part Five.

65. Section 54 including the title reads:

“Section 54
Provision of Local Broadcasting

(1) Licensed Broadcasters via cable systems and retransmission operators via cable systems will, at the request of municipalities or voluntary associations of municipalities, allocate for free one programme for municipalities to use as a non-paid local information system exclusively serving their requirements. This programme must not be used for advertising or teleshopping without the consent of the licensed Broadcasters or the retransmission operators.

(2) When creating their minimum range of programmes, retransmission operators via cable systems are obliged to ensure that the range includes the terrestrial broadcasts of all programmes of non-protected conditional access systems of the statutory broadcasters, which may be received by regular end-user equipment, through the cable lines, irrespective of whether these are analogue or digitally transmitted, and upon the consent of the statutory broadcaster^{3), 4)}.

(3) Statutory Broadcasters are obliged to provide the above mentioned programmes to retransmission operators via cable systems free of charge and the retransmission operators are obliged to include these programmes in their minimum programme range also free of charge.”.

66. In Part Five a new Heading VI is added after Heading V, which reads as follows:

“HEADING VI
ISSUANCE OF OPINIONS ON THE OBLIGATION OF ELECTRONIC
COMMUNICATIONS NETWORK OPERATORS TO DISSEMINATE PROGRAMMES
AND DIRECTLY RELATED SERVICES IN THE PUBLIC INTEREST

Section 54a

When assessing whether there is public interest and if this is continuing, the Council will in particular take into account the representation of public interest programmes and own production programmes, multimodal access of programmes broadcast for the hard of hearing and the visually impaired (sound descriptions, sign language, sub-titles, easy navigation) and the suitability of the broadcasters’ programmes for immediate notification pursuant to Section 32, Paragraph 1, Point k).”.

67. Section 55 including the heading reads:

“Section 55

**Information Plurality Provision in Nation-wide
Analogue Radio and Television Broadcasting**

(1) A single legal entity or natural person must not hold more than one nation-wide analogue television broadcasting licence.

(2) A single legal entity or natural person must not hold more than one nation-wide analogue radio broadcasting licence.

(3) A nation-wide analogue radio broadcaster must not have a share in the business assets of another nation-wide analogue radio broadcaster.

(4) A nation-wide analogue television broadcaster must not have a share in the business assets of another nation-wide analogue television broadcaster.

(5) A statutory nation-wide analogue television broadcaster must not merge with another nation-wide analogue television broadcaster in such a way that their statutory bodies or members of their statutory bodies are the same individuals or persons close to them or partners in trading companies or persons close to such people.

(6) A statutory nation-wide analogue radio broadcaster must not merge with another nation-wide analogue radio broadcaster in such a way that their statutory bodies or members of their statutory bodies are the same individuals or persons close to them or partners in trading companies or persons close to such people.

(7) A nation-wide analogue television broadcaster must not merge with nation-wide analogue television broadcaster in another manner (Section 58).

(8) A nation-wide analogue radio broadcaster must not merge with a nation-wide analogue radio broadcaster in another manner (Section 58).

(9) The provisions of Paragraphs 1, 2, 3, 4, 7 and 8 do not apply to radio and television broadcasting disseminated via cable systems and satellites.

(10) The provisions of Paragraphs 7 and 8 do not apply to persons involved in promoting and selling advertising services, services related to sponsoring and teleshopping, services related to market research and services related to programme purchasing, except for news programmes.”.

68. A new Section 55a is inserted after 55, which with its title reads

“Section 55a
**Information Plurality Provision in Nation-wide
Digital Radio and Television Broadcasting**

(1) A single legal entity or natural person must not simultaneously hold more than two nation-wide digital television broadcasting licences which authorise the dissemination of full format programmes.

(2) A single legal entity or natural person must not simultaneously hold more than two nation-wide digital radio broadcasting licences.

(3) A nation-wide digital television broadcaster must not have a share in the business assets of another nation-wide digital television broadcaster.

(4) A nation-wide digital radio broadcaster must not have a share in the business assets of another nation-wide digital radio broadcaster.

(5) A statutory nation-wide digital television broadcaster must not merge with another nation-wide digital television broadcaster in such a way that their statutory bodies or members of their statutory bodies are the same individuals or persons close to them, or their partners in trading companies or persons close to such people.

(6) A statutory nation-wide digital radio broadcaster must not merge with another nation-wide digital radio broadcaster in such a way that their statutory bodies or members of their statutory bodies are the same individuals or persons close to them, or are their partners in trading companies or persons close to such people.

(7) A nation-wide digital television broadcaster must not merge with a nation-wide digital television broadcaster in another manner (Section 58).

(8) A nation-wide digital radio broadcaster must not merge with a nation-wide digital radio broadcaster in another manner (Section 58).

(9) The provisions of Paragraphs 1, 2, 3, 4, 7 and 8 do not apply to radio and television broadcasting disseminated via cable systems and satellites.

(10) The provisions of Paragraph 3 do not apply to agreements between digital television broadcasters disseminated via transmitters on joint electronic programme guide operations. The provisions of Paragraphs 7 and 8 do not apply to persons involved in promoting and selling advertising services, services related to sponsoring and teleshopping, services related to market research and services related to programme purchasing, except for news programmes.”.

69. Section 56, including its title, reads:

“Section 56
**Information Plurality Provision for Regional
Radio and Television Broadcasting**

(1) If a single legal entity or natural person holds a number of non nation-wide television broadcasting licences or a number of non nation-wide radio broadcasting licences, the total coverage throughout the Czech Republic of either their licensed radio or their licensed television broadcasting must not in aggregate exceed 70% of the total population of the country, calculated from data from the last Census.

(2) A single legal entity or natural person may hold a share in the business assets of a number of non nation-wide radio or television broadcasters only in the event that the total coverage of the population of the Czech Republic of either the radio or television broadcasting in which the entity or person has an ownership share does not exceed 70% of the population, calculated from data from the last Census.

(3) The obligations set out in Paragraphs 1 and 2 do not apply to radio and television broadcasting disseminated via cable systems and satellites.”.

70. In Section 60, Paragraph 1, Point c) the words “Point i)” are replaced by “Point k)”; in Points d) and e) the words “Point j)” are replaced by “Point l)”; in Point f) the words “Point l) and m)” are replaced by “Point n) and o)” and in Point h) the words “Point n)” are replaced by “Point p)”.

71. In Section 60, Paragraph 3, Point g) the words “Point o)” are replaced by “Point r)”.

72. Section 60, Paragraph 4 reads:

“(4) The Council shall lodge a fine of between CZK 50 000 and CZK 5 000 000 to offenders who,

- a) Interfere with the content of broadcasters and retransmission operators in contravention to Section 31, Paragraph 1 and who breach their obligations related to the production or broadcasting of the programmes set out in special Acts^{3), 4)},

b) Interfere without authorisation to do so in the content of services directly related to programmes.”.

73. In Section 61, Paragraph 1, the words “Point j)” are replaced by “Point l)”.

74. In Section 63, Paragraph 1, Point a) the word “and” is replaced by “, 55a and”.

75. A Paragraph 3 is added in Section 67 which reads:

“(3) The provisions of Section 32, Paragraph 1, Points b) to g) will be reasonably applied to services directly related to programmes and supplementary services, as will the provisions of Section 35 to 41. If advertisements are disseminated as part of services directly related to programmes and electronic programme guides then the obligations set out in Section 48 will be reasonable to them with exception of Paragraph 4, Points a), b) and d).”.

76. A new Section 67a is inserted after Section 67, which reads:

“Section 67a

The provision of Sections 42 to 47 and 49 to 51 do not apply to the content of services directly related to programmes.”

Article II Transitional Provisions

1. Nation-wide television broadcasters holding licences for terrestrial analogue programme broadcasting, which have been extended to include the right to also broadcast their programmes digitally (hereafter only “extended license broadcasters”),

- a) who, within 180 days of the decision to extend the license taking legal effect, commence the digital broadcasting of their programme via terrestrial radio transmitting equipment networks (hereafter only “transmission networks”), and
- b) who, within 90 days of this Act coming into effect, submit to the Council a written declaration containing the consent to the implementation of changes to the set of technical parameters set out in their licence in accordance with the Technical Transition Plan and the undertaking to cease analogue broadcasting by the deadline set in the Technical Transition Plan,

will have the right to be awarded a licence for nation-wide terrestrial digital broadcasting of another programme, including the services directly related to this programme.

2. The Chairman of the Council will immediately announce the fulfilment of the conditions for acquiring the rights as set out in Point 1 by way of placing such an announcement on the Council’s official notice board and by making it available by remote access.

3. An extended licence broadcaster who has acquired the rights pursuant to Point 1 will be awarded the licence to broadcast another programme by the Council within 60 days of the date it receives the respective request to do so, which will fulfil the legally set conditions for such requests. Broadcasters who have the acquired the rights pursuant to Point 1 are authorised to conclude contracts for digitally disseminating the programme mentioned in Point 1 with terrestrial radio transmitter operators. If such a contract is not concluded within 90 days of the acquisition of the rights pursuant to Point 1 the Czech Telecommunication Office will assign a terrestrial radio transmitter operator the obligation to disseminate the programme mentioned in Point 1 within a further 30 days. The assignment of this obligation is not subject to the consultation pursuant to Act No. 127/2005 Coll., on Electronic Communications and Amendments to Certain related Acts (the Electronic Communications Act), as amended. The Czech Telecommunication Office will immediately inform the Council that such obligations have been assigned.

4. The Council will decide to withdraw licences if, according to the binding opinion of the Czech Telecommunication Office, an extended licence broadcaster who has been awarded a licence pursuant to Point 3 does not fulfil their commitment to cease analogue broadcasting by the relevant deadline or if they repeatedly breach in serious terms the conditions of the Technical Transition Plan.

5. Licensed local or regional television broadcasters who disseminate their programmes using the analogue method via transmitter networks at the date this Act comes into force (hereafter only “local or regional broadcasters”) will acquire the right to disseminate these programmes in unchanged format and for the duration of the validity of their licenses via transmitter networks intended for regional terrestrial digital television broadcasting (hereafter only “regional broadcasting networks”) if they deliver to the Council a written declaration stating that they intend to disseminate their programme, including the directly related services, digitally within the technical and operation capabilities of regional

broadcasting network. This declaration must be received within 60 days of the date when the Czech Telecommunication Office publishes notification that there is free transmission capacity available in the regional broadcasting network in the Telecommunications Bulletin and on its electronic official notice board. The declaration must contain both the consent to the implementation of changes to the set of technical parameters set out in the relevant licence, in accordance with the Technical Transition Plan, and the undertaking to cease analogue broadcasting within the deadline set out in the Technical Transition Plan. The local or regional broadcaster will also attach to this declaration a graphical interpretation of the coverage of the anticipated territorial area of broadcasting which, in terms of the regional dispersal of the regional transmission networks, will correspond to the area which receives the significant part of its unbroken reception of its analogue broadcasting at the date this Act comes into effect.

6. The Chairman of the Council will immediately announce the fulfilment of the conditions for acquiring the rights as set out in Point 5 by way of placing such an announcement on the Council's official notice board and by making it available by remote access.

7. The Council will, within 30 days of the date the deadline for delivering the written declaration set out in Point 5 expires, request from the Czech Telecommunication Office opinions pursuant to the provisions of Section 5, Point j) of Act No. 231/2001 Coll., in force on the date this Act becomes effective, and opinions on the possibilities of placement within regional broadcasting networks. This will apply to all local or regional broadcasters who have acquired rights pursuant to Point 5. Based on the local or regional broadcasters' application, the Council will insert the acquisition of the afore-mentioned rights in the relevant licences and also set the licence conditions for digital broadcasting which arise from the provisions of Act No. 231/2001 Coll., which are in force at the date this Act becomes effective. This will occur within 30 days of the Council receiving the last opinion, which it has requested of the Czech Telecommunication Office under the provisions of this Point.

8. Local or regional broadcasters who have had their licenses changed by the Council pursuant to Point 7 (hereafter only "digital licence holding local or regional broadcasters") may conclude contracts with entrepreneurs who provide regional broadcasting networks pursuant to the provisions of Section 72a, Act No. 127/2005 Coll., on Electronic Communications and Amendments to Certain Related Acts (the Electronic Communications Act), which are in force at the date this Act becomes effective.

9. Digital licence holding local or regional broadcasters (Point 8) who are broadcasting using analogue on frequencies shared with licensed nation-wide television broadcasters (hereafter only "local or regional broadcasters using shared frequencies") at the date this Act comes into effect,

- a) whose aggregate local or regional broadcasting territorial area exceeds 33% of the total territory of the Czech Republic or whose broadcasts may be received in aggregate by at least 33% of the Czech population, calculated using data from the last Census, and
 - b) who have concluded contracts for creating programme networks,
- may nominate a legal entity, which will then acquire the right to be awarded a licence for digitally broadcasting one nation-wide television programme with a time schedule supplementing the time schedule of the local or regional shared frequency broadcaster pursuant to the contract on creating the programme networks. The Council will award this

licence to the legal entity within 60 days of receiving its request for the licence, which fulfils the all the relevant conditions laid down by the law, if there is available free transmission capacity in the regional broadcasting network, in the opinion of the Czech Telecommunication Office. If, in the Czech Telecommunication Office's opinion this is not the case, the Council will give the legal entity priority in being awarded such a licence within 60 days of the Czech Telecommunication Office's decision to allocate radio frequencies coming into effect pursuant to the provisions of Act No. 127/2005 Coll., Act No. 127/2005 Coll., on Electronic Communications and Amendments to Certain Related Acts (the Electronic Communications Act), which are in force at the date this Act becomes effective. A declaration from all local or regional shared frequency broadcasters creating the programme network, stating that the request is being submitted by their nominated legal entity who should be awarded the licence must be attached to these requests for licences; these declarations may be made only once by each local or regional shared frequency broadcaster. The provisions of Section 57 Act No. 231/2001 Coll., in force at the date this Act comes into effect do not apply to programme networks created pursuant this Point.

10. When creating their minimum programme range, retransmission operators via cable systems are obliged to ensure that the range includes the terrestrial broadcasting of all the full format nation-wide programmes by non protected conditional access systems of licensed broadcasters, including local and regional broadcasters on frequencies shared with licensed nation-wide broadcasters, according to the actual status at the date this Act comes into effect; this obligation does not apply to programmes which are only broadcast digitally. Licensed nation-wide broadcasters and local and regional broadcasters using frequencies shared with licensed nation-wide broadcasters are obliged to provide the above-mentioned programmes to retransmission operators free of charge and the retransmission operators are obliged to include these programmes in their minimum programme range also free of charge. The obligations of retransmission operators using cable systems, licensed nation-wide broadcasters and local and regional broadcasters on frequencies shared with licensed nation-wide broadcasters as set out in this Point expire on 31st December 2011.

11. Licenses for local broadcasting issued pursuant to the previous laws will be considered at the date this Act comes into effect as being licenses for regional broadcasting if the respective radio or televisions broadcasts in the given territorial area may be received by more than 1% of the population of the Czech Republic, calculated from data from the last Census.

12. Any administrative procedures for awarding licences for terrestrial digital broadcasting which have been commenced but not completed as at the date this Act comes into force will be suspended for a period of 90 days starting at the date this Act comes into force; The Council will complete such procedures pursuant to the provisions of Act No. 231/2001 Coll., which are effective on the date this Act comes into force. Other administrative procedures which have been commenced but not completed will be completed by the Council pursuant to the provisions of Act No. 231/2001 Coll., which are effective on the date this Act comes into force.

PART TWO

Amendments to the Electronic Communications Act

Article III

Act No. 127/2005 Coll., on Electronic Communications and amendments to certain related acts (the Electronic Communications Act), as amended by Act No. 290/2005 Coll. and Act No. 361/2005 Coll., is amended as follows:

1. Section 17, Paragraph 5, Point a) the words “for analogue disseminated radio or television broadcasting” are inserted after “licence”.

2. Section 17, Paragraph 8 reads:

“(8) The Office may issue authorisation to utilise radio frequencies for radio services if,

- a) a licence for analogue disseminated radio or television broadcasting has been issued pursuant to special laws¹¹⁾,
- b) the radio frequencies in question have been reserved by Office for radio or television broadcasters pursuant to special laws¹⁶⁾, or
- c) an allocation of radio frequencies has been issued for these services.

The Office may only issue authorisation to utilise radio frequencies for other radio communications services from the section of the radio spectrum exclusively reserved for radio services if it has the consent of the Council for Radio and Television Broadcasting and pursuant to special laws¹¹⁾.”.

3. A new Section 72a is inserted after Section 72, which reads:

“Section 72a

(1) Radio and television broadcasting dissemination services are to be provided on the basis of written contracts concluded between the radio or television broadcaster^{11), 16)} and an entrepreneur who provides these electronic communications services.

(2) An entrepreneur providing radio and television broadcasting dissemination services is obliged to negotiate the conclusion of the contracts pursuant to Paragraph 1 in the event they are requested to do so by radio and television broadcasters.

(3) If the contract is not concluded pursuant to Paragraph 1 the Office will be authorised to make a decision on the dispute on the basis of an application made by either of the contractual parties. Section 127 similarly applies for resolving disputes. Applications by contractual parties to resolve disputes must contain proposed contracts which should specify the disputed areas.

(4) The submission of appeals against decisions made pursuant to Paragraph 3 will not have any suspensive effects.”.

4. In Section 112, Paragraph 3, a new Point a) is inserted, which reads:

“a) in co-operation with the Council for Radio and Television Broadcasting, drafts part of the plans for allocating frequency bands intended for radio services,”.

The previous Points a) to c) are denoted as Points b) to d).

5. In the first sentence of Section 112, Paragraph 4 the words “requested territorial extent” is replaced by the words “requested territorial area”.

6. Section 125, Paragraph 5 reads:

“(5) The Office is also obliged to publish information relating to the procedures and conditions connected with rights to build electronic communications networks pursuant to special laws⁴¹⁾ and information relating to networks for radio services pursuant to special laws¹¹⁾.”.

Article IV **Transitional Provisions**

1. Leading on from the plan for radio spectrum utilisation, the Czech Telecommunication Office will issue the Technical Plan for the Transition from Terrestrial Analogue Television Broadcasting to Terrestrial Digital Television Broadcasting (hereafter only the “Technical Transition Plan” which is intended to be measures of a general nature.

2. In the Technical Transition Plan the Czech Telecommunication Office will lay down in particular the deadlines, conditions and procedures for the process of developing electronic communications networks for terrestrial digital television broadcasting, including the deadlines, conditions and procedures for switching off terrestrial analogue broadcasting in the Czech Republic, pursuant to the provisions herein. The intention is to set up an electronic communications network for multiplex public services, other networks for nation-wide terrestrial digital television broadcasts, and a single network for regional terrestrial digital broadcasting. The Czech Telecommunication Office is obliged to draft the Technical Transition Plan in such a way that it ensures a transparent, equal and non-discriminatory approach at each stage of the transition towards terrestrial television broadcasters who are authorised to broadcast in this manner at the date this Act comes into force. The Czech Telecommunication Office will update the Technical Transition Plan, in particular with consideration to international frequency band co-ordination for terrestrial digital broadcasting.

3. The Technical Transition Plan is binding to; entrepreneurs who provide electronic communications networks intended for disseminating terrestrial broadcasting; licensed broadcasters and statutory broadcasters pursuant to Section 3, Paragraph 1, Points a) and b) of Act No. 231/2001 Coll., on Radio and Television Broadcasting Operation, and the relevant state bodies, with the intention of implementing and completing the transition to terrestrial digital television broadcasting by the end of 2012 at the latest.

PART THREE

Amendments to the Act on Administrative Fees

Article V

The annexed tariff of charges to Act No. 634/2004 Coll., on Administration Fees, as amended by Act No. 217/2005 Coll., Act No. 228/2005 Coll., Act No. 361/2005 Coll., Act No. 444/2005 Coll., Act No. 545/2005 Coll., Act No. 553/2005 Coll., Act No. 48/2006 Coll., Act No. 56/2006 Coll., Act No. 57/2005 Coll., Act No. 81/2006 Coll., Act No. 109/2006 Coll., Act No. 112/2006 Coll., Act No. 130/2006 Coll., Act No. 136/2006 Coll. and Act No. 138/2006 Coll., is amended as follows:

1. Item 67, Point a) reads:
“a) Submissions of applications for
 - authorisation for television broadcasting CZK 50 000.-
 - extending the validity of authorisation for television broadcasting CZK 50 000.-”.

2. Point b) of Item 67 is deleted.
The previous Points c) to e) are denoted as Points b) to d).

3. In Item 67, Point c) reads:
“c) Submission of an application to operate retransmission CZK 50 000.-”.

4. In Item 67, Point d) reads:
“d) Submission of applications to change information in
 - applications for television broadcasting authorisation CZK 10 000.-
 - applications for radio broadcasting authorisation CZK 3 000.-
 - applications to operate retransmission CZK 10 000.-”.

5. In Item 67, Point d) the text “Point e)” is replaced by “Point d)”.

PART FOUR Changes to the Act on Radio and Television Fees

Article VI

In Section 8, Paragraph 10 of Act No. 348/2005 Coll., on Radio and Television Fees and Amendments to Certain Acts the words “supplier providing electricity to customers” replace “distribution system operator”.

Footnote No. 15 reads:

¹⁵⁾ Act No. 458/2000 Coll., as amended.”.

PART FIVE
Effect

Article VII

This law comes into effect on the date it is published, except for Article I, Points 26, 55 and 56, which come into effect on 1st January 2012.