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**Analysis and review
of a draft Law on broadcasting activity
of “the former Yugoslav Republic of Macedonia”
prepared by
the Ministry of Transport and Communications**

by

Karol Jakubowicz, Ph.D.

and

**Directorate General for Information Society and Media (Audiovisual and
Media Policies Unit) of the European Commission**

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I. FOREWORD

This document contains an analysis of the proposed Law on Broadcasting Activity as prepared by the authorities of “the former Yugoslav Republic of Macedonia” in April 2005. The analysis was jointly prepared by Dr Karol Jakubowicz**, Council of Europe independent expert, and the Directorate General for Information Society and Media (Audiovisual and media policies Unit) of the European Commission.

The Council of Europe has worked jointly with the Directorate General for Information Society and Media of the European Commission in order to provide common comments on the proposed Law on Broadcasting Activity and therefore, facilitate the work of the institutions of “the former Yugoslav Republic of Macedonia”. The present review will concentrate on assessing the Draft Law with Council of Europe standards and the EC audiovisual *acquis*, including particularly the “Television Without Frontiers” Directive.

It is important to underline that the comments do not represent an official view of the European Commission and do not prejudice the right of the European Commission to comment further once the law has been passed. In the context of the Stabilisation and Association Process and the application for membership of the European Union of “the former Yugoslav Republic of Macedonia” responsibility for the content of the new law and its conformance with the EC audiovisual *acquis* rest entirely with the national authorities.

The Draft Law constitutes a third attempt in as many years to develop a new Law on Broadcasting Activity for “the former Yugoslav Republic of Macedonia”. Dr Jakubowicz has already reviewed the two earlier versions (see **Comments on a draft Broadcasting Law of “the former Yugoslav Republic of Macedonia”**, ATCM(2003)017, Strasbourg: Council of Europe, Stability Pact for South-Eastern Europe, 28 July 2003; **Analysis and review of Draft Law on broadcasting activity of “the former Yugoslav Republic of Macedonia” Working version prepared by a working group** ATCM(2004)031, Strasbourg: Council of Europe, Stability Pact for South-Eastern Europe, 23 November 2004)².

Some recommendations made by the Council of Europe in the 2004 review have been incorporated into the present draft; many were not, even though in many cases they sought to remove discrepancies between the Draft Law and European regulations. This review must, therefore, repeat some of the recommendations made earlier, as well as deal with remaining issues and concerns.

** Director, Strategy and Analysis Department, National Broadcasting Council of Poland.

² He has also been informally consulted on two occasions by the OSCE Office in Skopje and the Ministry of Transport of Communications, regarding some articles of the Draft Law.

In preparing this review, the opinion of the existing Broadcasting Council on a version of the Draft Law³ was examined, though the text commented upon by the Council appears to be different in some aspects from the one examined here. The present review will draw on some of the comments made by the Broadcasting Council.

II. BACKGROUND

Council of Europe

In a democratic society, media legislation must be based on the presumption of freedom, including the rights and freedoms laid down in Article 19 of the International Covenant of Civil and Political Rights (ICCPR) and Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

Article 10 of ECHR proclaims freedom of expression, including the right to hold opinions and to receive and impart information and ideas **without interference by public authorities** and regardless of frontiers.

These rights and freedoms are to be enjoyed and exercised by everyone. Accordingly journalists and the media do not have special rights and privileges over and above those enjoyed by other individuals. If these freedoms are assumed, then it is clear that legislation need only describe rules and procedures for their exercise and lay down such restrictions and exceptions from them as are acceptable in a democratic society.

The European Court of Human Rights has consistently held that any restrictions on freedom of expression, must be based on the exhaustive list of reasons for such restrictions in para. 2 of Article 10 of ECHR, and must also be prescribed by law, narrowly interpreted, must respond to a pressing social need, pursue a legitimate aim, must be pertinent and proportional to the aim pursued, and necessary in a democratic society.

The Declaration on the Freedom of Expression and Information, adopted by the Committee of Ministers of the Council of Europe on 29 April 1982, regards the freedom of expression and information as vital for the social, economic, cultural and political development of every human being and as an essential foundation of democracy, and calls on States to guard against infringements of the freedom of expression and information; it regards the existence of **a wide variety of independent and autonomous media, reflecting a diversity of ideas and opinions**, a cornerstone of a democratic media system.

Council of Europe standards relate to many aspects of the media system and operation. They will be referred to here as needed.

³ Opinion of the Broadcasting Council for the text of the draft-law for broadcasting activity from April 2005, Skopje, April 2005.

European Union

Article 6 of the Treaty on the European Union specifies that the Union respects Fundamental Rights as guaranteed by the European Convention on Human Rights, including freedom of expression and information.

In the Declaration adopted at the EU-Western Balkans Summit in Thessaloniki, 21 June 2003, the EU reiterated its unequivocal support to the European perspective of the Western Balkan countries: “The future of the Balkans is within the European Union. (...) Preparation for integration into European structures and ultimate membership into the European Union, through adoption of European standards, is now the big challenge ahead (...) The speed of movement ahead lies in the hands of the countries of the region”.

In this case, the “standards” are defined i.a. in the Copenhagen criteria, including “stability of institutions guaranteeing democracy, the rule of law, human rights and the respect for and protection of minorities”. This is ascertained by means of analysing political institutions and the relations among them, in order to assess how democracy actually works in practice, in terms of how various rights and freedoms, such as the freedom of expression, are exercised, through, for example, the role of political parties, non-governmental organisations and the media and especially respect for fundamental rights, including freedom of expression and association.

In June 1995 the European Council at Madrid highlighted the importance, not only of incorporating the *acquis* into national legislation, but also of ensuring its effective application through appropriate administrative structures.

“The former Yugoslav Republic of Macedonia” applied for membership to the European Union in 2004. The specific chapter on audiovisual policy of accession negotiations focuses on the degree of approximation of national broadcasting legislation to the EC audiovisual *acquis*. The EC audiovisual *acquis* requires the establishment of a transparent, predictable and effective regulatory framework for broadcasting (both public and private) in line with European standards, and the legislative alignment with the “Television Without Frontiers” Directive, which creates the conditions for the free movement of television broadcasts within the EU. The Directive includes basic common requirements concerning jurisdiction, advertising, major events, the promotion of European works, the protection of minors and public order and the right of reply.

At this stage of the process leading towards possible future membership, the broadcasting legislation of “the former Yugoslav Republic of Macedonia” should already show close alignment with EC *acquis*.

III. GENERAL COMMENTS AND ASSESSMENT

The present Draft Law is a significant improvement on the Broadcasting Activity Law now in force in “the former Yugoslav Republic of Macedonia”, and also on the 2004 draft.

However, as explained below, the Draft Law retains a number of shortcomings, relating notably to:

- The status and independence of the public service broadcaster;
- Adequate regulation of many aspects of the broadcasting system, including particularly licensing;
- Compliance with many of the provisions of the Television Without Frontiers Directive and other elements of EU law, especially as regards State aid.
- Lack of sufficient regulation of local broadcasters, established and funded by local government bodies. As pointed out in the Opinion of the Broadcasting Council, the government has formulated some policy orientations in this regard. The Opinion calls them “local public companies”, but in fact they represent (local) government broadcasting, controlled by local politicians, and there should be no room for such stations in a democratic broadcasting system. A solution is proposed in Article 179, but this is contested by the Broadcasting Council in its Opinion. Without full knowledge of the documents the Opinion refers to, it is difficult to recommend a course of action. The matter is clearly controversial and it appears doubtful whether the Broadcasting Council will be able to resolve it on its own – possibly in the face of opposition from both local government bodies and MRT. Unless it is resolved in the present Draft Law, it will remain to be regulated in future amendments to this Law. This would be **a failure of the present objective to regulate broadcasting** in “the former Yugoslav Republic of Macedonia”.

Most of these issues were repeatedly raised in reviews of previous versions of the Draft Law, but – as noted above – recommendations made in them have in many cases been disregarded. This is a cause for concern as it may signify some problems with the alignment of the Draft Law with European standards, and particularly the EC audiovisual *acquis*.

As such, considerable work remains to be done before it can be said that the Draft Law has achieved a satisfactory level of compliance with Council of Europe standards and the EC audiovisual *acquis*. Adoption of the Law in its present form would thus serve no purpose, as it would have to be substantially amended immediately afterwards.

In any case, it has to be noted that work on the revision of the Television Without Frontiers Directive is likely to produce a new Directive within the next few years. The same applies to the European Convention on Transfrontier Television. This will probably require considerable revision of the Law on Broadcasting Activity in the future.

Under Article 59 of the Draft Law *‘The permit to produce and/or broadcast programme services via a digital terrestrial transmitter shall be granted upon the adoption of the Strategy for Broadcasting Activity Development in the Republic of Macedonia as defined in Article 37, paragraph 1, indent 1 of this Law’*. However, launching digital switchover will also require a considerable body of new legislation, both in the Law on Broadcasting Activity and in the 2005 Electronic Communications Law.

Thus, the authorities must be prepared to do further work on the Law in the not-too-distant future.

IV. DETAILED COMMENTS

Article 4, para. 1

“Broadcasting organization” shall mean a legal person with editorial responsibility in compiling a radio or a television programme service designated for reception by the public

Both the European Convention on Transfrontier Television and the Television Without Frontiers Directive define “broadcaster” as a natural or legal person. Articles 49 and 53 of the Draft Law provide that both natural and legal persons may apply for, and be granted a licence to broadcast. **Therefore this definition should be extended to cover both natural and legal persons. Accordingly, the term should be “broadcaster” and not a “broadcasting organization”.**

Article 12 does require court registration of commercial broadcasters, but this does not contradict the fact that licences to broadcast may be awarded to both natural and legal persons.

Article 4, para. 4

“Re-broadcasting” shall mean receiving and, at the same time, broadcasting via any technical means, of complete and unmodified radio or television programme services ...

Article 2 (b) of the European Convention on Transfrontier Television defines "retransmission" as “the fact of receiving and simultaneously transmitting, irrespective of the technical means employed, complete and unchanged television programme services, or important parts of such services, transmitted by broadcasters for reception by the general public”. Thus, this definition refers both to retransmission via a cable network and to re-broadcasting via a transmitter. **Thus, the proper term here is “retransmission” rather than re-broadcasting.**

It is possible that the original term is correct and only the translation is not fully accurate.

Article 4, paras. 9 and 13

Obstacles to the successful progress of accession negotiations mentioned above are very likely to include the definition of “national audiovisual works”, as any quotas of domestic production, or other measures of this nature will be seen as contradicting the EC principles of the free flow of goods and services. EC rules permit the promotion of national languages (see recital 25 of Directive 89/552/EEC), so these provisions could be rephrased into promotion of programming originally produced in the main official language or other languages spoken by a non-majority ethnic community.

The same could apply to “in-house” programmes if quotas of such programmes are seen as a way of discriminating against European audiovisual works, as defined in Article 4, para. 14⁴.

⁴ This is not to say that it is impossible under EC rules to promote and protect the culture(s) and cultural identity(ies) of a Member State. The 2002 Danish Broadcasting Act imposes on some categories of local TV stations the obligation to “1) daily transmits at least ½ hour of locally

Alignment with the Television Without Frontiers Directive requires introducing a reference to ‘surreptitious advertising’ as defined in Article 1 d of the Directive.

Articles 6-12

These articles establish a broadcasting system composed of three sectors: public; commercial and non-profit (the latter to be composed of educational, cultural and other institutions and associations of citizens and foundations – see Article 7). This should enrich the broadcasting landscape and contribute to its diversity, though it is true that the non-profit sector will probably only be able to operate local radio stations.

In its Opinion, the Broadcasting Council raises the question “whether the educational, scientific and cultural institutions and civic associations can perform broadcasting activity besides their primary activity”. This does not appear to be a real problem in that when granting such institutions a licence to broadcast, the Broadcasting Council will have to be satisfied that the applicant meets all the requirements listed in Article 46-51, i.e. is really capable of becoming a broadcaster and has sufficient funding to broadcast a programme service on a sustained basis.

Nevertheless, the Article does leave a loophole as concerns the legal form and status of such a broadcaster. Under Article 6, “broadcasting activity may be performed by a broadcasting organization”. The question therefore becomes whether educational, scientific and cultural institutions and civic associations will themselves have the status of broadcasting organizations, or whether they will be under an obligation to create separate broadcasting organizations, acting on their behalf. The second option seems preferable for institutional, programming and financial reasons.

The second issue concerns court registration of non-profit broadcasters. Commercial broadcasters must be registered by a court (see Article 6, 12, 55), but it is not clear whether the same applies in the case of non-profit broadcasters.

This issue should be resolved in the final version of the law, **and there seems to be no reason why the same formal requirement should not apply to non-profit broadcasting organizations.**

produced news and current affairs programmes or other programmes with a local focus, where programme material from other stations in the same county or a neighbouring county engaged in regular cooperation with the enterprise in relation to programme activities may be included in the time calculation, and 2) ensures that a significant proportion of the remaining programmes are in the Danish language or produced for a Danish audience”. Similar provisions can be found in the Irish Radio and Television Act of 1988. It obliges the Independent Radio and Television Commission to consider applications for sound broadcasting licences by taking into account, among other things: the quality, range and type of the programmes proposed to be provided by each applicant or, if there is only one applicant, by that applicant; the quantity, quality, range and type of programmes in the Irish language and the extent of programmes relating to Irish culture proposed to be provided and the extent to which the applicant will create within the proposed sound broadcasting service new opportunities for Irish talent in music, drama and entertainment. Another case in point is the French Broadcasting Law and secondary broadcasting regulation which view protection of French culture as a priority. Similar provisions could be introduced into this Law while still fully implementing the Television Without Frontiers Directive.

It is assumed that court registration is a purely formal procedure and cannot be used to prevent a potential broadcaster from going on the air. It may also be regulated elsewhere. If it is not, or if any danger exists that the procedure could be used to curtail freedom of expression, **the present law should clearly specify that the court does not have any discretion to refuse registration, once the appropriate information has been received.**

Articles 13-20

These articles are dedicated to the protection of pluralism and diversity of broadcasting organizations, and thus in part to limiting media concentrations and ensuring transparency of the broadcasting market.

As noted in the review on the 2004 draft, “the former Yugoslav Republic of Macedonia” can determine its own policy in this field. It might be useful, however, to consider the view expressed by Article 19, the Global Campaign for Free Expression, in its comments on the Law on Broadcasting now in force in “the former Yugoslav Republic of Macedonia”⁵ Protection of pluralism and diversity is certainly an important public policy goal and should continue to be pursued. However, very detailed and stringent rules limiting concentration may lead to broadcasting organizations being undercapitalized and unable to compete on the regional and European markets – especially given that no restrictions are to be placed on foreign investors. **This would argue in favour of liberalizing the rules somewhat (while still preventing excessive concentration and monopolization of the market, of course) in order to enable broadcasters from “the former Yugoslav Republic of Macedonia” to grow so that they could become national champions, able to survive on the open and competitive market, and to protect their markets.**

Of course, this is a policy decision for the national authorities to take.

Articles 23-28

The method of appointing members of the Broadcasting Council proposed in this version of the law requires reconsideration of the following issues:

1. Article 24 states in part: ‘The Broadcasting Council shall ensure the fair representation of the members of the ethnic communities in the Republic of Macedonia’. The mechanism for achieving this purpose is not described, though one assumes that this will be one of the criteria applied by the Elections and Nominations Commission of the Assembly in selecting from among the two candidates for each seat. Some more thought could be given to regulating this in more detail, but only if this is found to be really necessary;

⁵ In its “Analysis of the Decree Proclaiming the Law on Broadcasting Activity Macedonia”, April 1997 and the Proposal for an Enactment of the Law on Public Media Macedonia, March 1997, Article 19 states: “Articles 10, 11 and 17 of the Broadcasting Law establish stringent standards regarding monopolies and cross-media ownership (...) The same rules are extended to the press by Articles 32 and 33 of the Public Media Law. These restrictions are very severe, particularly for a relatively underdeveloped broadcast sector such as is found in Macedonia. Restrictions based on the industry as a whole, for example restricting ownership in broadcasting to 15% of the market, would be more appropriate in these circumstances”.

2. Article 26 lists the President of the Republic as an authorized nominator, but Articles 27-28 do not. One assumes, therefore, that this is an oversight in revising Article 26 in the translated version, but **this should be rectified.**
3. The Broadcasting Council argues in its Opinion that ‘The authorised submitters ought to be stable institutions and it is not clear why it should not be the President of the Republic of Macedonia’. There are two aspects to these issues. One is that the new system appears to have been designed to ensure the political independence of the Broadcasting Council, in line with **Recommendation Rec (2000) 23 of the Council of Europe Committee of Ministers on the Independence and Functions of Regulatory Authorities for the Broadcasting Sector, so politicians should not be involved in proposing candidates** (see also below). Secondly, a situation in which the President proposes two candidates and one of them is rejected by the Elections and Nominations Commission (and the other could potentially be rejected by the Assembly) **could pose a constitutional problem in light of Article 8 of the Constitution of “the former Yugoslav Republic of Macedonia” which lists the division of state powers into legislative, executive and judicial as one of the fundamental values of the country’s constitutional order and of Article 85 which appears exhaustively to enumerate forms of mutual relations between the President and the Assembly (in addition to the President’s role in the legislative process).**
4. The Elections and Nominations Commission is given two clearly contradictory functions in Article 27 (to nominate candidates for two seats) and in Article 29 (to select the final list of candidates by rejecting one of the two candidates for each seat – including from among its own four candidates). This should be changed for two reasons: (1) it gives the Commission too much power in both proposing candidates, and in assessing candidates nominated by other authorized nominators. This can give politicians the ability to seriously affect the composition of the Council – which is what this entire system is designed to prevent; (2) given that the Commission itself will select two out of the four candidates it is to propose in the first instance, it can be expected that real selection will take place at the moment of nominating the four candidates, two of whom will be destined to be rejected at a later stage. This would skew the entire process. Given the decisive role of the Assembly first in selecting one of the two candidates for each seat and then in electing (or refusing to elect) him/her, **the Assembly should have no role in proposing candidates.**
5. Article 28 states: ‘Should a Council member resign or his/her term of office cease prior to the expiration the term for which she/he is elected, the Parliament of the Republic of Macedonia shall elect a new Broadcasting Council member for the remaining part of the term.’ It seems obvious that the Assembly will ask the authorized nominator who originally proposed the member who has resigned to submit a new nomination, but to avoid any misunderstanding, **this should be clearly spelt out in this paragraph.**

Article 29 states: ‘*The Assembly shall elect new Council members, voting for each candidate on the list separately, one month prior to the expiration of Broadcasting Council members` term of office`.* It may happen that some candidates will not get a majority. Therefore the law should provide for the possibility that the same nominators will be asked to propose new candidates, to

be voted upon in a new procedure. Also, the law should determine whether in such an instance the Broadcasting Council can operate legally, even if not all 9 members have been elected. In other words, the law should state the minimum number of members who constitute a legally functioning Council, pending the election of new members either after one or more have resigned, or the Assembly failed to elect the full number of members at the first attempt.

Articles 34, 36, 37

Article 34 states in part: *'The financial plan for the work of the Broadcasting Council shall be approved by the Assembly of the Republic of Macedonia'*. This and other provisions of the three articles should be considered from several points of view:

- On the one hand, the Broadcasting Council should operate in an economical and cost-effective way and external scrutiny of its financial plan could be seen as one way of ensuring that;
- On the other hand, **Recommendation Rec (2000) 23 of the Council of Europe Committee of Ministers on the Independence and Functions of Regulatory Authorities for the Broadcasting Sector** is very clear on the need for the financial independence of such authorities: *10. Public authorities should not use their financial decision-making power to interfere with the independence of regulatory authorities. Furthermore, recourse to the services or expertise of the national administration or third parties should not affect their independence; 11. Funding arrangements should take advantage, where appropriate, of mechanisms which do not depend on ad-hoc decision-making of public or private bodies.* It must be recognized, and there are a few examples of such practice from various countries, that when parliaments are dissatisfied with broadcasting regulatory authorities, they may use their power to determine their budgets in such a way as to undermine them;
- Under Article 35, the Council will not be financed from the State budget (which must be adopted by the Assembly), but from other sources: *funds levied from the broadcasting fee and duties from the licences to perform broadcasting activity.*
- In some years, when no licences to broadcast are granted, revenue streams could be insufficient to cover the costs of the Council's operation. Therefore, a flexible mechanism for supplementing the funding (from the State Budget, if necessary) of the Council is needed;
- The Council is to be a non-profit body, so in years when the revenue exceeds its needs it should be under an obligation to dispose of excessive income in a specified way: either by remitting the surplus to the State budget, or by boosting spending for the development of broadcasting activity, as envisaged in Article 151.

A possible solution to these contradictory dilemmas could be as follows:

- Under Article 33, *the work of the Broadcasting Council is public. This could apply equally to its budget. The Council should be obliged to publish its budget every year, specifying i.a. how it would use any surplus income;*
- The Assembly would not **approve** the budget, but would have the power to **react** if it found some irregularities in it (the form of this reaction and of the process leading to the revision of the budget should be described in the Law);
- The Council could apply for extra funding to the Assembly if its financial estimates for next year showed costs exceeding income.

Article 37, 54, 65 and 66

Under Article 37 one of the Council's competencies is to decide upon appeals and other petitions lodged against decisions issued by the Broadcasting Council. This is then developed in Article 54, 65 and 66, though Article 65 and 66 also provide for judicial review of licensing decisions – a new and welcome development.

It is not acceptable in the normal course of events that a body acts as its own court of appeals. Moreover, Article 3.3 of the Television Without Frontiers Directive requires the establishment of appropriate procedures for third parties directly affected to apply to the competent judicial or other authorities to seek effective compliance according to national provisions.

Article 54 introduces a requirement of a 2/3 majority in deciding on a complaint lodged against the Council's decision to grant a licence. This is a higher majority than in a normal procedure, so it is acceptable as a second-instance review of a decision taken by a smaller majority in the first instance. But it should still not foreclose the possibility of the aggrieved party pursuing the matter further and seeking judicial review of such a decision.

Unless this is clear from other legislation, the law should state that anyone can always take the Broadcasting Council to court in relation to any of its decisions.

Article 38, 39

Article 38 establishes the position of the Director of the professional service assisting the Broadcasting Council.

This is opposed by the current Broadcasting for the following reasons:

The text of the law suggests establishing of Director of the expert service of the Council with broad authorities, which can mean disbalance in the decision-making power between the Council as collective body elected by the Assembly and one person.

The introduction of Director (article 38/39) who will run the expert's service of the Council is completely unnecessary, and the practice of the Council gathered in the past eight yars leans in this direction. The current establishment of the expert's service, which

is led by Secretary, who is also regular employee with indefinite contract in the Council proved to be the most adequate. At the same time, the experience gathered so far proved that the President of the Council and his deputy, who are regular employees of the Council during their mandate and represent the Council, is a positive experience because they are present in the Council on daily basis and serve as link between the Council members and the expert's service, which enables efficient functioning of the Council.

These arguments appear to be internally contradictory. On the one hand, they stress the collective nature of the Council; on the other, they defend the current system whereby the President and the Vice-President have a different status from the rest of the members and much closer contact with the expert service. This could potentially give the President and Vice-President an advantage over the other members in running the work of the Council and in its decision-making process.

The decision to put all members of the Council on an equal footing should be retained.

The position of a director of the professional service of a regulatory body, especially a collective one, is common in other countries. A director, as an employee accountable to all the members, must serve and provide information to all members equally and without distinction.

On the other hand, the Draft Law does give the future Director a position of considerable (perhaps excessive) independence and offers him/her job protection exceeding what is required in such a case. He/she appears to be seen almost as a counterweight to the Council. The effect would be to weaken the position of the Council. This should be prevented. The professional staff and its Director are there to serve the Council – which alone has the mandate to take decisions and to act in the exercise of its functions – and not to act independently of it. Now that all Council members will be remunerated, they can be involved in the work of the Council much more actively than in the past.

Therefore, the list of the Director's tasks should be reduced significantly and should say in effect that his/her job is to:

- **manage the professional service in the execution of the tasks of the Council;**
- **undertake tasks and duties entrusted to him/her by the Council;**
- **propose to the Council (or its President, depending on the Statute of the Broadcasting Council) candidates for employment in the professional service and for managerial positions within it.**

By the same token, the job protection offered to the Director in Article 39 – more suitable in the case of elected officials, than an administrative employee – could well be reduced. The Council should be able to fire and hire the Director as it sees fit – though presumably this should be decided by a vote with a simple majority required.

Article 46

“the former Yugoslav Republic of Macedonia” has ratified the Framework Convention for the Protection of National Minorities which states in Article 9.3 that “In the legal framework of sound radio and television broadcasting, [Parties] shall ensure, as far as possible, and taking into account the provisions of paragraph 1, that persons belonging to national minorities are granted the possibility of creating and using their own media”.

This could be one more criterion to apply by the Broadcasting Council in determining its licensing policy, especially at the regional and local level, to complement the criterion of pluralism already incorporated into Article 46.

Article 51

‘In the course of making a decision to award a license, the Council shall evaluate the bids on the basis of the following:

(...)

- *the genre and thematic diversity of programme service contents, the percentage of **in-house** production programmes in the total daytime programming planned to be broadcasted, the participation of programmes treating events and cases of relevance for the area covered, and the participation of national and European audiovisual works;*
- *the participation of programme services encouraging **national production**, national culture, etc.;*

As noted above and in the previous review, references to in-house and national production may, in the course of EU accession negotiations be seen as discriminatory vis-à-vis works produced in other EU Member States, or producers from other Member States. Since EU policies permit promotion of the national language(s), quotas of national production can be replaced by quotas of works originally produced in national language(s).

Article 42, 47

Article 42 states in part: ‘*The license shall regulate the programming service structure.*’ Article 47 says that ‘*The decision to announce an open competition for awarding licenses for performing broadcasting activity shall contain the following: (...) the contents (format) of the programme service.*’

This language could suggest that the Broadcasting Council could dictate the contents of programming to the licence-holder, which would be a violation of the broadcaster’s freedom of expression.

It would be advisable to use a more general term: “the nature of the programme service” instead.

Article 47

Article 47 states that ‘The decision to announce an open competition for awarding licenses for performing broadcasting activity shall contain the following: (...) the fundamental technical requirements, standards, and parameters on broadcasting determined in compliance with the Law on Electronic Communication’.

- This may suggest, though this is not entirely clear, that the announcement of the competition specifies the frequency which will be used by the broadcaster upon receiving the licence.
- However, there is not a clear statement anywhere in the chapter on licensing that together with a licence to broadcast the applicant receives the allocation (reservation) of a frequency or frequencies needed to transmit the service. This may create the impression that the broadcaster, after receiving the licence to broadcast, has to apply to another body for the frequency or frequencies.
- This impression appears to be confirmed by Article 55 which states: *‘On the basis of the Decision for awarding a license and the court registration the competent authority in the field of electronic communication and by the competent authority in the field of urban planning and construction will issue the necessary permits and approvals.’*
- This seems to create an obstacle course of three different administrative procedures – complicated still more by the registration procedure under Article 55 – that a potential broadcaster has to complete before being able to start broadcasting.
- **This should be rectified, since a licence to broadcast which does not at the same time contain the reservation of a frequency (frequencies) to be used by the broadcaster, covers only a part of what it should contain. The Law on Broadcasting Activity should establish a process of cooperation between the Broadcasting Council and Agency for Electronic Communications to resolve this issue (see the Appendix for Article 37 of the Polish Broadcasting Law, which creates a one-stop shop for the applicant in obtaining the licence and the reservation of a frequency). Article 56 should be amended to include the reservation of a frequency as part of the licence to broadcast issued by the Broadcasting Council.**

Article 57

- In its Opinion, the Broadcasting Council opposes par. 2 of this Article for the following reasons:

‘In Article 57, the limitations and the criteria according to which programme via satellite can be broadcasted are deleted, so now every broadcaster will be able to broadcast via satellite only by informing the Council for this. According to the Council, this could create chaos in the broadcasting space and misbalance in the regulation of different sectors. (...) it is not logical for the broadcasters to have licenses for terrestrial

broadcasting on local level and to be allowed to also broadcast programme via satellite, because in this way they will be focused not on the domestic public, but on the public outside Macedonia. The opinion of the Council is that the same program service, on a basis of information, through satellite can be broadcast only by national level broadcasters. On the other hand, the previous version (from October 15, 2004) also envisaged provisions for granting licence exclusively for broadcasting program via satellite, which are stroke out from the latest text of the Law.'

- It seems obvious that a broadcaster needs to obtain a licence to **broadcast** a programme service via satellite and this is possible under the present law. In the case of **retransmission** of an already licensed programme service, the matter is different.

In the present Draft Law, an attempt is made to ensure its technological neutrality (see e.g. the definition of “broadcasting activity” in Article 3: *Broadcasting activity*”, *in terms of this Law, shall mean broadcasting and transmission of radio and/or television programming services, regardless of chosen technical means of transmission, in coded or non-coded form, designated for general public reception*”. Presumably this is also the intention behind this provision.

Retransmission of an already licensed terrestrial programme service via a satellite (and this is probably what is meant by Article 57 para. 2) should not require a second licence. The same procedure of registration should apply as in the case of cable television (see Article 110). Alignment with the Television Without Frontiers Directive requires that freedom of reception of programmes broadcast in another Member state of the European Union is ensured.

There should be no legal or administrative barriers to satellite retransmission of local programme services, though it might be doubtful whether such they will be attractive enough for satellite operators to be interested in carrying them. This, however, should be left to negotiations between interested parties.

Article 58

It is not clear why non-profit stations are to receive licences to broadcast for only 2 years at most. While some flexibility in licence duration might be advisable, the Broadcasting Council should check whether such a station has the funds necessary to operate and grant a full-term licence.

Article 59

*'The permit to **produce** and/or broadcast programme services via a digital terrestrial transmitter shall be granted upon the adoption of the Strategy for Broadcasting Activity Development in the Republic of Macedonia as defined in Article 37, paragraph 1, indent 1 of this Law.'*

- **One assumes that “permit” really means “licence”. If so, this proper term should be used. If not, then this provision is questionable, since it would appear to introduce a new procedure for obtaining the right to broadcast. If this refers to existing programme services which would be moved to DTT, then this could be achieved by a procedure of revising the existing licence to broadcast.**

- **The word “produce” should be deleted from this article as licences grant only a right to broadcast a programme service. Production is subject to no limitations.**

Article 63

The Broadcasting Council may revoke the license in the following cases:

- *if the candidate provided incorrect data on the basis of which the license was granted(...)*
- *if the license-holder, having received a written notice from the Council, fails to pay the license fee;*
- *if the license-holder fails to conform with the requirements and obligations for performing the activity determined by the law and by its license, and fails to act in the time period specified in line with the requests and measures imposed by the Broadcasting Council, the independent body in the field of electronic communications, and by other competent supervisory bodies towards eliminating any operational irregularities;*
- *if the license-holder fails to meet technical standards applicable to studio equipment necessary for programme broadcasting, or fails to adjust its technical facilities to relevant technical standards within a specific period;*
- *if the license-holder violates the provisions against unlawful media concentration;*
- *if the license-holder fails to respect copyrights.*

Revocation of a licence to broadcast is an extreme measure which should be applied only when absolutely necessary and if other measures to remedy the situation have failed. All the reasons for possible licence revocation mentioned in the above excerpt from Article 63 are vague and can cover a multitude of situations (from trivial to very serious transgressions against the law) – not all of which could justify such a measure. In other words, the Broadcasting Council would be given excessive arbitrary power to infringe on a broadcaster’s freedom of expression. **This should be rectified. In any case, this article should be moved to the chapter on penal provisions and should be revised in such a way as to make it clear that licence revocation would come only after other penalties have failed to remedy the situation.**

It would be cause for serious concern if this provision remained unchanged in the adopted law.

Article 69

Article 22 bis of the <http://www.srd.org.mk/en/> Television without frontiers Directive bans incitement of hatred on grounds of sex. Alignment with the Directive requires a reference in this respect.

Article 71

Article 22.1 of the Television without frontiers Directive reads that television broadcast does not include programmes that might seriously impair the physical, mental or moral development of minors, in particular programmes that involve pornography or gratuitous violence.

Although pornography and ‘excessive’ violence are banned in Article 70, other programmes that could seriously impair the development of juveniles may still be broadcast between 22:00 and 5:00 in contradiction with Article 22.1 of the Directive.

According to Article 22.2 of the Directive Member States shall take appropriate measures to ensure that broadcast does not include any programmes that **are likely to impair** the physical, mental or moral development of minors, except where it is ensured, by selecting the time of the broadcast or by any technical measure, that minors in the area of transmission will not normally hear or see such programmes. Furthermore, when such programmes are broadcast in unencoded form Member States shall ensure that they are preceded by an acoustic warning or are identified by the presence of a visual symbol throughout their duration.

Alignment with the Television Without Frontiers Directive requires a redrafting of this Article in line with Article 22 of the Directive.

Article 74

Broadcasting organizations shall be obliged to allocate at least 20% of the overall purchased programme per annum for European audiovisual works.

This quota of European works is different from those laid down in both the European Convention on Transfrontier Televisio⁶ and in the Television Without Frontiers Directive⁷. First of all, it refers to a percentage of “purchased programme”, not of total transmission time. Secondly, it does not exclude certain programme genres (news, sports events, games, advertising, teletext services and tele-shopping) from the calculation of the quota. It is true that both the Convention and the Directive allow for a considerable degree of flexibility (“where practicable” and “should be achieved progressively”), but as a Party to the Convention, “the former Yugoslav Republic of Macedonia” has accepted a responsibility to comply with its provisions.

The obligation for MRT to retransmit European works is even lower, as Article 125 states that the public service broadcaster will reserve 30% of the international television programme to European audiovisual works. Furthermore, according to Article 124 at least 50% of the total annual programming of MRT shall be national, which makes it impossible to comply with Article 10 of the European Convention on Transfrontier Television and Article 4.1 of the Without Frontiers Directive. These numbers should therefore be reformulated to comply with the Convention and the Directive. The law may foresee a gradual increase of the percentage from 20% today to at least 51% in a few years’ time.

6 Article 10 of the Convention reads: “1. Each transmitting Party shall ensure, where practicable and by appropriate means, that a broadcaster within its jurisdiction reserves for European works a majority proportion of its transmission time, excluding the time appointed to news, sports events, games, advertising, teletext services and tele-shopping. This proportion, having regard to the broadcaster's informational, educational, cultural and entertainment responsibilities to its viewing public, should be achieved progressively, on the basis of suitable criteria”.

7 Article 4 of the Directive reads: “Member States shall ensure where practicable and by appropriate means, that broadcasters reserve for European works, within the meaning of Article 6, a majority proportion of their transmission time, excluding the time appointed to news, sports events, games, advertising, teletext services and teleshopping. This proportion, having regard to the broadcaster's informational, educational, cultural and entertainment responsibilities to its viewing public, should be achieved progressively, on the basis of suitable criteria”.

We recommend indicating that the obligations concerning European works shall not apply to local broadcasters intended for local audiences that do not form part of a national network, as stated in Article 9 of the Television Without Frontiers Directive.

Article 78

'Broadcasting organizations may broadcast (simultaneously or delayed) events of great importance, domestic or foreign, on the basis of exclusive rights, only if the broadcasting of that specific event does not restrict the right of a greater portion of the population to follow that event.

Events of great importance are:

Winter and Summer Olympic Games;

Semi-final and final matches of World and European Competitions, as well as other matches where the Macedonian team is involved, including qualification matches;

Other sport matches where the Macedonian team plays on official tournaments and competitions, and matches of Macedonian clubs.

The Council, by means of a special Decision, may define and amend a list of events of great importance.

(...)'

The inclusion of “other sport matches where the Macedonian team plays on official tournaments and competitions, and matches of Macedonian clubs” under the concept of “major events” is excessive and should be reconsidered.

The Article makes no mention of the requirement of Article 9a.2 of the Convention and Article 3a.3 the Directive. This should be rectified. The Broadcasting Council should be given the competence to issue a decision which would protect the rights of the audience in other States-Party to the Convention and (in the future) Member States of the EU.

Articles 82-83

The language obligations imposed by this article on broadcasters are excessive. Protection of national language(s) is of course acceptable, but not in a disproportionate form. Moreover, these obligations, as well as the compulsory language of broadcasting advertisements and teleshopping spots could create a potential conflict or, at least, confusion as regards freedom of reception of television broadcast from other Member States of the European Union established in Article 2 a 1 of the Television Without Frontiers Directive.

This should be reconsidered.

Article 88

Teleshopping shall not exhort minors to contract for the sale or rental of goods and services, according to Article 16.2 of the Television Without Frontiers Directive. Alignment with the Television Without Frontiers Directive requires a specific reference in this respect.

Article 89

We recommend adding ‘-be offensive to religious or political beliefs’ as established in Article 12.1. b of the Television Without Frontiers Directive.

Article 97

Advertising and teleshopping shall be inserted between programmes according to Article 11 of the Television Without Frontiers Directive. Television advertising shall be kept separate from other parts of the programme by optical and/or acoustic means. Moreover, isolated advertisement and teleshopping spots shall remain the exception according to Article 10.2 of the Television Without Frontiers Directive.

Advertising in sport programmes and similar events shall only be inserted between the parts of the intervals, according to Article 11 of the Television Without Frontiers Directive.

Alignment with the Television Without Frontiers Directive requires specific references in this respect.

Article 103

Advertising and teleshopping for alcoholic beverages shall not be aimed specifically at minors according to Article 15 a) of the Television Without Frontiers Directive. Alignment with the Television Without Frontiers Directive requires a specific reference in this respect.

Article 111

This article establishes the **must carry** rule for *the programmes of the public broadcasting service*. However, it does not explain whether that covers only the basic MRT programme services listed in Article 117, or also the additional or complementary programme services which MRT may launch.

This should be regulated very clearly, as this may lead to controversies between MRT and cable operators and be regarded by the latter as an excessive obligation. Moreover, if national cable operators offer different packages of programme services at different prices, the Law should put them under an obligation always to offer the basic MRT programme services in the cheapest package.

Article 114

‘The operator of the public communication network shall not broadcast its own radio or television programme services, including advertisements and teleshopping.(...)’

This provision does not appear to be justified. It is common practice for cable operators to offer to their subscribers programme services available only via the cable system. More often than not,

these are local news and current affairs channels. A ban on such channels would deprive the local audience of an additional source of information, comment and possibly entertainment.

Moreover, cable companies may form part of larger market entities, combining terrestrial and satellite broadcasting with cable systems. That would prevent such entities from being able to offer their own terrestrial channels via their cable systems.

It is not clear, either, why advertising and teleshopping should be banned from such channels, unless this is meant as a method of protecting the revenue of local and regional terrestrial channels. If so, that would be an anti-competitive measure.

This provision should be reconsidered.

Articles 116, 174

Article 174 describes MRT as a “public enterprise”. The 1998 Law on the Establishment of the Public Enterprise Macedonian Radio-Television states in Article 3 that “the Public Enterprise [MRT] has features of a legal person. The assets of the Public Enterprise are a public property”. Article 4 reads: “The Macedonian Radio-Television Public Enterprise shall conduct its activities as the firm “Public Enterprise Macedonian Radio-Television”, and the abbreviated name MRT”. This is not changed in the present law.

It is not clear that the status of a “public enterprise” can guarantee MRT’s independence, especially if it means that MRT is also governed by the Law on Public Enterprises. In the literature, the country’s Parliament is described as “the founder” of MRT, though this is not expressly stated in the Law on the Establishment of the Public Enterprise Macedonian Radio-Television.

All this should be clarified and the present law should derogate from other legislation potentially binding on MRT to cushion MRT against governmental or parliamentary interference.

Neither this draft, nor the Law on the Establishment of the Public Enterprise Macedonian Radio-Television guarantees the public service broadcaster its institutional autonomy and editorial independence. **This directly contradicts European standards⁸ and should be rectified.**

This Draft Law should therefore be revised both to state the principle, and to implement it in practice, that PSB should enjoy effective institutional and editorial independence.

⁸ Ministers of the States participating in the 4th European Ministerial Conference on Mass Media Policy (Prague, 7-8 December 1994) resolved in Resolution No. 1 („The Future of Public Service Broadcasting”) to guarantee and strengthen further the freedom of the media, affirmed that media pluralism and diversity are essential to democracy, and undertook to guarantee the existence of public service broadcasting, also by establishing or maintaining an appropriate and secure funding mechanism. In that Resolution, member States undertook „to define clearly, in accordance with appropriate arrangements in domestic law and practice and in respect for their international obligations, the role, missions and responsibilities of public service broadcasters and to ensure their editorial independence against political and economic interference”. In Recommendation No. R (96) 10, the Committee of Ministers of the Council of Europe on the guarantee of the independence of public service broadcasters recommended that member states include in their domestic law provisions guaranteeing the editorial independence and institutional autonomy of public service broadcasters.

Otherwise the law would constitute cause for serious concern.

Article 116

‘MRT shall be funded from the broadcasting fee, as well as from advertisements, sponsorships, donations, sales of programme items and services and from funds secured from the budget of the Republic of Macedonia for the current year’.

“Donations” as a source of funding for a public service broadcaster could perhaps be accepted only if they come with no strings attached. **The Law should make that very clear, i.e. that donations cannot be made conditional in any way.**

Article 117

‘MRT shall broadcast special radio programmes intended for the neighbouring countries and Europe.

*MRT shall broadcast special radio programme services to inform expatriates and citizens of the Republic of Macedonia living in the neighbouring countries, Europe and other continents.
MRT shall broadcast one radio and one television programme service via satellite intended for expatriates and citizens of the Republic of Macedonia living in Europe and other continents.’*

Provided the translation is correct, it is not sufficiently clear how these three channels will differ from one another, and whether these requirements are not excessive. **This should be reconsidered. In any case, at least some of them should be fully funded from the State budget, as being a service provided by MRT to the State.**

MRT can provide additional or complementary programme services on the basis of a Decision of the Council of MRT, upon previous consent by the Steering Board of the MRT and the Broadcasting Council, provided the programme services are not financed through the broadcasting fee

This introduces a category of unlicensed programme services that are likely to be of a commercial nature. It is questionable whether simple administrative “consent” of the Broadcasting Council can be a sufficient legal foundation for the launching of such programme services. Such programme services would be in direct competition with those of commercial broadcasters which raises serious concerns in the area of protection of competition, to say nothing of fair trading and State aid issues, should the programme services be cross-subsidized in any manner from broadcasting fee revenue.

This appears to be a departure from the system created by existing and proposed broadcasting legislation. If MRT is to launch additional (commercial) programme services, they should be licensed under a normal procedure laid down in this Draft Law. New provisions should also be added to this law, or to the Law on the Establishment of the Public Enterprise Macedonian Radio-Television, putting it under an obligation to introduce

fair trading principles and accounting systems preventing any open or hidden cross-subsidization of these new channels from public funds.

Articles 118, 119, 143, 151

The provisions of these Articles, which give PE “Makedonska radiodifuzija” a secure monopoly in the transmission of MRT programme services, and a guaranteed share of licence fee revenue both for its transmission services and for its development, are likely to be seen to violate State aid rules and as a distortion of competition, especially if – as suggested by other paragraphs of this article – other commercial operators exist who would be capable of doing the job.

As suggested by the European Commission enquiries into State financing of switchover costs to a digital terrestrial television (DVB-T) project in Germany and in Sweden (where network operators involved in the delivery of digital programme services were formally selected from the start and were to receive monies originating from State aid to broadcasters switching over to digital transmission), the provisions of these articles may be seen as violating EU rules on State aid to services in the general interest.

Also the national State Aid Law of 2003 states in Article 2.1 that “Any State aid, irrespectively whether it is granted under an aid scheme or as an individual aid award, which distorts or threatens to distort competition by favoring certain undertakings or certain products, is incompatible with this law insofar as it may affect trade between the Republic of Macedonia and the European Community.”

Therefore these provisions should be revised

Article 122

‘MRT shall be obliged in the course of producing and broadcasting news and current affairs programme services to adhere to professional principles and to provide equal access to diverse interests in society, to advocate freedom of speech and pluralism in expressing public opinion, and to prevent any kind of racial, religious, national, ethnic and other kind of intolerance.’

This provision is unobjectionable in itself, of course, and probably necessary, but it is not clear why these standards should apply only to news and current affairs programming. They should apply to all programming, so it would be best if these provisions were moved to Article 121.

Articles 124-125

These articles introduce domestic and in-house production quotas for MRT, as well as independent and European production quotas – though the latter are defined in a way far removed from the definitions and quotas laid down in the Television Without Frontiers Directive (see comments on Articles 4, para. 9, 13 and 74).

As already noted, this will constitute an obstacle to the successful progress of accession negotiations and shows that “the former Yugoslav Republic of Macedonia” disregards its

commitments accepted on ratification of the European Convention on Transfrontier Television.

This is a cause for very serious concern, given also that these issues were raised also in previous reviews of earlier drafts, but have always been disregarded.

Articles 126-142

These Articles concern the governing bodies of MRTV: Council, Steering Board and Executive Director.

Provisions concerning the MRT Council have been changed, compared to the previous version: it is to be composed of 51 members appointed by the Assembly, with 21 to be nominated by the Elections and Nominations Commission of the Assembly, and 30 to be nominated by a wide variety of societal organizations, acting as authorized nominators.

This is a policy decision for the national authorities to take, but such a large number of members of the MRT Council can be unmanageable.

Article 130 calls for some decisions to be taken *‘with a majority of votes of the total members of the Council of MRT, and with the majority of votes of the Council members from the not-majority communities in the Republic of Macedonia’*. As in the case of the Broadcasting Council, the procedure for making sure there sufficient numbers of representatives of these non-majority communities is not defined. **This may give rise to a variety of problems.**

The three bodies are arranged in a “cascade” system, with each appointing the one immediately below. However, there are no mutual incompatibilities (i.e. no ban on a Council member being appointed to the Steering Board, and nothing to prevent either a Council or a Steering Board member from taking part in the competition for the position of Executive Director). **This should be rectified.**

The Steering Board has few areas of competence and appears to be an unnecessary intermediate stage between the Executive Director and the Council. **The need for it is doubtful and the decision to create it could be reconsidered.**

The Executive Director, i.e. the person most directly responsible for the operation of MRT, has the fewest competencies. It appears he/she will have little to say with regard to programming, while ordinarily such a person is also the Editor in Chief of the whole organization.

The present system is a considerable improvement on the ones proposed in the previously reviewed drafts, but could still be improved to minimize the danger described above.

Articles 145-153

These articles regulate the funding of MRT. Some issues raised by these articles have already been discussed (see above). The main remaining issue, already raised in the 2004 review, concerns the fact that these provisions fall far short of what is required by EU State Aid law. The

system introduced by the Commission “Directive on the transparency of financial relations between Member States and public undertakings as well as on financial transparency within certain undertakings” (80/723/EEC) and the **Communication from the Commission on the application of State aid rules to public service broadcasting** (2001/C 320/04) of the proportionality and transparency of State aid, including separate accounting for public and other (commercial) revenue, as well as other regulations designed to prevent distortion of market competition by MRT, should be introduced. This should prevent the sale of advertising at dumping prices, a practice of which MRT has already been accused.

This system should create certainty that public funds are only used to finance activities covered by the public service remit of MRTV. These principles and provisions should be incorporated into this law or the 1998 Law on the Establishment of the Public Enterprise MRT. The 2003 State Aid Law is not detailed enough to regulate the funding of MRT and its financial system.

Article 154

The Article regulates the right of reply to the incorrect or incomplete information broadcasted that injures the legitimate rights or interests of the person concerned, **as well as**, his/her dignity, honour and reputation. We recommend substituting ‘as well’ with ‘in particular’ in line with Article 23.1 of the Television without frontiers Directive.

Article 173

The Opinion of the current Broadcasting Council strenuously opposes the idea that a new Broadcasting Council should be appointed when the Draft Law is adopted and takes effect:

‘The suggested text of the Law suggests vast changes in the part concerning the Broadcasting Council as regulatory body, in context of strengthening of its position and authorities, which is positive from an aspect of coordination with the European legislation. However, the text suggests cancelling of the mandate of the existing Council and establishing of a completely new composition, which is contrary with the CoE recommendation No. (2000) 23 for the regulatory broadcasting authorities and which can lead to discontinuity in the work of the Council, i.e. in the regulating of the broadcasting activity (...) Therefore, the Broadcasting Council believes that the members from the existing composition should be replaced as their mandate expires (the mandate of the first two Council members expires in June of 2005), which will provide continuity and will pave a new path for suggesting Council members by authorised submitters.’

As concerns the CoE Recommendation, the Opinion asserts that it prevents the dismissal of all members of a broadcasting regulatory authority at the same time in the interest of the continuity of the mandate of its members. It is true that the Explanatory Memorandum to Recommendation Rec (2000) 23 on the independence and functions of regulatory authorities for the broadcasting sector says *It is understood, though not spelt out in the Recommendation, that dismissal can only apply to individual members of regulatory bodies and never to the body as a whole.* However, this refers only to cases when dismissal takes place in a stable legal framework, and then – according to the Recommendation – dismissal should only be possible in case of non-respect by members of regulatory authorities of the rules of incompatibility, or a duly noted incapacity

(physical or mental) to exercise their functions, and – exceptionally – on grounds of a serious offence. The Recommendation is silent on situations when the law is changed and a new system for appointing members is introduced – and this is the case in the present instance.

Continuity of a regulatory body's work is certainly very important. However, the current Broadcasting Council itself recognizes in its Opinion that the new system of appointing the members is more democratic. Therefore, it should be introduced as quickly as possible.

The solution proposed by the Broadcasting Council – that the new system be introduced gradually, as the terms of office of current members expire – appears to be legally doubtful, as the Council members would be appointed according to two very different systems.

APPENDIX I**POLISH BROADCASTING LAW**

Article 37

1. The broadcasting licence shall specify in particular:
 - 4) the identity of the broadcaster, his seat or place of residence,
 - 5) the nature of activity covered by the broadcasting licence,
 - 6) method of transmitting the programme service (by terrestrial diffusion, satellite distribution and cable system) and:
 - for terrestrial diffusion:
 - a. location of the station,
 - b. height on which the antenna is located,
 - c. power of the transmitter and the maximum transmission power,
 - d. antenna pattern,
 - e. frequency,
 - f. polarisation,
 - for transmission via satellite:
 - g. the name of the satellite used,
 - h. the satellite's position on the orbit,
 - i. frequency,
 - j. the power of the transponder.
 - for cable system:
 - k. the location of the system head station,
 - l. area covered by the cable system.
 - 7) the nature of programme service to be transmitted and the time of its transmission,
 - 8) the date of the initial transmission of the programme service,
 - 9) the date of expiry of the licence,
 - 10) the share of programmes produced by domestic producers within the programme service.
2. The licence may specify other aspects of the broadcaster's activity, if so required to implement the provisions of the Act.
3. Within the scope stipulated in paragraph 1, subparagraph 3, the broadcasting licence shall be awarded in agreement with the President of the Telecommunications and Post Regulatory Office.
 - 3a. Where the transmission of radio or television programme services requires a frequency reservation, such reservation shall be made in conjunction with the broadcasting licence. Frequency reservations, alterations and revocations shall be governed by Article 22 and Article 23 of the Act - "Telecommunications Law".
4. Following consultation with the President of the Telecommunications and Post Regulatory Office, the National Council shall specify, by a regulation, the essential information to be provided in the application form as well as the detailed procedure of awarding or revoking broadcasting licences.

APPENDIX II**PROPOSED LAW ON BROADCASTING ACTIVITY****I. GENERAL PROVISIONS**

Article 1

This Law shall regulate the requirements and the manner of performance of broadcasting activity as well as the public interest of the Republic of Macedonia in the field of broadcasting.

Article 2

The aim of this Law is to ensure:

- **the freedom of expression in the broadcasting activity in accordance with the Constitution of the Republic of Macedonia and the international agreements that the Republic of Macedonia has ratified or acceded to;**
- **protection of the interests of the users**
- **promotion and stimulation of competition and development of the broadcasting activity in the Republic of Macedonia;**
- **transparency, independence and non-discrimination of regulatory processes;**
- **independent and efficient public broadcasting service.**

Article 3

“Broadcasting activity”, in terms of this Law, shall mean broadcasting and transmission of radio and/or television programming services, regardless of chosen technical means of transmission, in coded or non-coded form, designated for general public reception.

The technical requirements for set-up and operation of radio stations i.e. the conditions under which construction, maintenance and use of networks and means of broadcasting and transmission of programming services through public communication networks shall be regulated with regulations governing the field of electronic communications.

Article 4

Specific expressions used in this Law shall have the following meaning:

1. **“Broadcasting organization” shall mean a legal person with editorial responsibility in compiling a radio or television programming service designated for public reception, whereby the legal person itself is transmitting such contents or has them transmitted, fully and without any changes thereto whatsoever, by third persons, under conditions and in a manner determined by law.**

2. "Operator of a public communication network" shall mean a legal person which has the right to build, own, lend and operate a public communication network and auxiliary means, and which can provide public communication services.
3. "Broadcasting" shall mean original transmission of radio and/or television programming services designed for general public reception, which are transmitted by means of terrestrial transmitters, electronic communication networks, or a satellite. This shall not include communication services carried out on the basis of individual requests.
4. "Re-broadcasting" shall mean reception and simultaneous broadcasting via any technical means, of complete and unmodified radio or television programming services or of significant components of such services that broadcasting organizations broadcast for public reception.
5. Broadcasting activity on a national level shall be performed by a broadcasting organization with coverage of viewers or listeners of at least 80% of the population of the Republic of Macedonia.
6. Broadcasting activity on regional level shall be performed by broadcasting organizations providing coverage of listeners or viewers on the territory of several municipalities comprising a natural geographic and demographic entity with population ranging from 150,000 to 400,000 inhabitants. The City of Skopje and its surroundings shall be considered a separate region.
7. Broadcasting activity on local level shall be performed by broadcasting organizations providing coverage of the territory of one settlement and its immediate surroundings with population of up to 150,000 inhabitants.
8. "Programming service" shall mean an entity comprised of shows and other elements of a single service provided by a specific broadcasting organization, designated for public reception.
9. "In-house programme" shall mean radio or television programme created (produced) upon the initiative and in the organization of the broadcasting organization itself. The notion of "in-house programme" in terms of the previous Article shall hereby also apply to the programmes commissioned by the broadcasting organization (commissioned production) as well as to any programme created in co-production. Advertising, tele-shopping and other paid advertisements shall not be deemed in-house programming.
10. "Advertising" shall mean any public announcement included in the programme of a broadcasting organization aimed at promotion of sales, purchase or renting of products or services, promotion of actions or ideas, or achievement of any other effect desired by the client or by the broadcasting organization itself, performed upon payment, any other form of remuneration or for self-promotion purposes.
11. "Sponsorship" shall mean the participation of a legal or natural person, that is not involved in broadcasting or production of audiovisual works, in the direct or indirect financing of the programmes of broadcasting organizations, with the aim to promote its name, trademark, or image.
12. "Teleshopping" shall mean any direct offer to the public, broadcasted, regardless of the chosen technical means of transmission, with the aim to purchase, sell or rent products and

services, including real estate, rights and obligations, on the basis of payment. "Direct offer" shall apply to any offer that, in addition to information on the supplier and the features of the product or service concerned, contains some of the following elements: price, postal or electronic address and/or telephone number through which the purchase can be made.

13. "National audiovisual works" shall mean works created solely by producers registered in the Republic of Macedonia or in co-production with such producers, based upon works predominantly developed by authors or performers who are citizens of the Republic of Macedonia.

14. "European audiovisual works" shall mean:

(a) works originating from the Member-States of the European Union or from third European states- parties to the European Convention on Transfrontier Television of the Council of Europe (if such works are not subject to national discriminatory measures), predominantly created by authors and workers from the States therein, provided they meet one of the following requirements: works created by one or more producers established in one or more of these States; or if the production of the works was supervised and actually controlled by one or more producers established in one or more of these States; or if the contribution of co-producers from the States mentioned prevailed in the total production costs, provided the co-production was not controlled by one or more producers established outside these States

(b) works originating from third European countries and created solely by, or in co-production with, producers established in third European countries with which the European Union has concluded agreements related to the audiovisual sector, where such works have mainly been developed by authors and workers living in one or more of these European countries and where such works are not subject to national discriminatory measures of these states;

(c) works that are not European in the sense of lines (a) and (b) of this Article but have been created within the framework of bilateral co-production agreements signed between European Union Member States and third countries shall be deemed European works provided that the co-producers from the European Union have a greater contribution in the total production costs, and the production was not controlled by one or more producers established outside the territories of Member-States of the European Union;

(d) works that are not European, as stipulated in lines (a) and (b) of this Article, but are created mainly by authors and workers residing in one or more Member-States of the European Union shall be deemed European works depending on the direct proportion of the cost-share of the European Union co-producers in the total production costs.

15. An independent producer shall mean a natural or legal person registered for production of audiovisual works, with a seat in the Republic of Macedonia or in another State, provided that:

- it is not part of the organizational structure of a given broadcasting organization;
- its share in the capital of the broadcasting organization concerned does not exceed 25%;
- the broadcasting organization concerned does not have a share in the capital assets of the producer;

Article 5

The provisions of this Law shall apply to all broadcasting organizations under the jurisdiction of the Republic of Macedonia. The jurisdiction of the Republic of Macedonia shall cover broadcasting organizations established in the Republic of Macedonia i.e. broadcasting organizations which have their seats in the Republic of Macedonia and whose editorial policy is decided in the Republic of Macedonia. The jurisdiction of the Republic of Macedonia shall also cover broadcasting organizations where:

- the seat of the respective broadcasting organization is in the Republic of Macedonia, while the editorial policy concerning the programming schedule is made in a Member-State of the European Union, or in a country that is party to the European Convention on Transfrontier Television, or in a third party, provided that a significant part of the workforce performing the broadcasting activity is located in Macedonia;
- the seat of the respective broadcasting organization is in Macedonia, and a significant part of its workforce works both in Macedonia and in a European Union Member State, or in a country that is party to the European Convention on Transfrontier Television, or in a third party;
- the seat of the respective broadcasting organization is located in a European Union Member-State or in a country that is party to the European Convention on Transfrontier Television, provided a significant part of its workforce performing the broadcasting activity is located in Macedonia;
- the broadcasting organization concerned initially started the broadcasts of programming services in Macedonia in compliance with national legislation and has been maintaining stable and effective relations with the Macedonian economy, in cases where a significant part of the workforce does not work neither in Macedonia nor in a European Union Member-State nor in a country that is party to the European Convention on Transfrontier Television.

The broadcasting organizations for which the conditions set out in Paragraph 3, lines 1, 2, 3, and 4 of this Article do not apply, shall be deemed under the jurisdiction of the Republic of Macedonia if they use:

- frequency for which permit is issued by the Republic of Macedonia;
- satellite capacity pertaining to the Republic of Macedonia, although the frequency used is not granted by the Republic of Macedonia;
- satellite connection to the satellite operated on the territory of the Republic of Macedonia although neither the frequency issued nor the satellite capacity belongs to the Republic of Macedonia.

II. BROADCASTING ORGANIZATIONS

Article 6

Broadcasting activity may be performed by a broadcasting organization, under the conditions and in a manner determined by this Law and by other laws.

A broadcasting organization shall be established as a public broadcasting company, a commercial broadcasting company.

Article 7

A broadcasting activity with not-for-profit purpose can be performed by educational, cultural and other institutions and associations of citizens and foundations, under the conditions and in the manner established by this law.

Entities which perform broadcasting activity with not-for profit purpose, have the editorial responsibility to compose the radio and/or television programmes intended for public reception.

Article 8

A public broadcasting company shall be established on the territory of the Republic of Macedonia to perform the functions of a public broadcasting service.

The public broadcasting company shall operate in a manner and under the conditions defined by this Law.

Article 9

A commercial broadcasting company may be established by legal or natural persons, under the terms and conditions defined by this Law and by other laws.

Article 10

Educational, cultural and other institutions and associations of citizens and foundations which perform broadcasting activity for non profit purposes may broadcast programmes with the objective to meet the needs and interests of specific target groups in the public.

Several entities mentioned in paragraph 1 of this Article may obtain a license to perform broadcasting activity to broadcast programmes using a single frequency, on the basis of time-sharing principle.

The Broadcasting Council, on the basis of the strategy for development of broadcasting activity in the Republic of Macedonia, shall prescribe the rules for obtaining a licence to perform broadcasting activity and about the attributes of the programmes of the entities from paragraph 1 of this Article.

On the basis of obtained licence to perform broadcasting activity for not-for-profit purposes, the competent authority in the area of electronic communications and the competent authority for urban planning and construction will issue the necessary licences and consents.

No fee shall be charged for the permit to perform broadcasting activity for not-for-profit purposes.

Article 11

Political parties public administration bodies, public enterprises, units of local self-government, public office holders and members of their families may not perform broadcasting activity, nor they may appear as founders or co-founders, or participate in the ownership of the broadcasting organizations.

Article 12

A commercial broadcasting company shall be registered at a competent court on the basis of a Decision for granting a License for Performance of Broadcasting Activity.

III. PROTECTION OF PLURALISM AND DIVERSITY OF BROADCASTING ORGANIZATIONS

Article 13

Media concentration, in terms of this Law, shall be considered to have occurred if a broadcasting organization:

- **participates in the founding capital of another broadcasting organization;**
- **participates in the founding capital of a publishing company that publishes a daily newspaper, or in a news agency;**
- **participates in the founding capital of an advertising and marketing company, a market research and public opinion polling company, a film distribution company, a film production company, or a telecommunication services company;**
- **simultaneously possesses several licenses for performing broadcasting activity;**
- **simultaneously broadcasts both radio and television programming services;**
- **simultaneously broadcasts radio and/or television programming services and publishes a daily newspaper distributed on the territory covered by the radio and/or television programme services broadcasted;**
- **simultaneously broadcasts radio and/or television programme services and performs news agency activities, investigation and security activities, advertising and promotion, market research and public opinion polling, distributes films, produces films, or provides telecommunication services;**

In terms of this Law, media concentration shall also be considered to have occurred if a broadcasting organization has been established by natural persons or legal entities that are, at the same time:

- **founders of another broadcasting organization;**
- **founders of a publishing company that publishes a daily newspaper distributed in the territory covered by radio and/or television programming services broadcasted;**
- **founders of a news agency;**
- **founders of an advertising and promotion company, a market research and public opinion polling company, an investigation and security company, a film distribution company, a film production company, or a telecommunication services company;**
- **related entities in the sense of this Law's provisions.**

Article 14

A natural or a legal person, majority co-owner, shareholder, as well as a related person in a broadcasting organization possessing a license to perform broadcasting activity on national level, may appear as co-owner or participate in the ownership of only one other broadcasting organization with a license to broadcast on national-level; however this participation shall not exceed 50% of the organization's capital or 50% of the control package of shares.

A natural or legal person, a majority co-owner, shareholder, or related person in a broadcasting organization possessing a license to perform broadcasting activity on national level, may appear as a majority co-owner in only one other broadcasting organization with a license to broadcast on regional-level and in not more than two other broadcasting organizations with licenses to broadcast on local-level, provided the said broadcasting organizations broadcast areas do not border each other.

A natural or legal person, a majority co-owner, shareholder, as well as a related person in a broadcasting organization possessing a license to perform broadcasting activity on regional level, may appear as a majority co-owner in not more than one other broadcasting organization with a license to broadcast on regional-level in a non-neighbouring area, and in not more than two other broadcasting organizations with licenses to broadcast on local-level, provided their respective areas mentioned do not share a common border.

A natural or a legal person, a majority co-owner, a shareholder, or a related person in a broadcasting organization possessing a license to perform broadcasting activity on a local level, may be a majority co-owner in maximum two more broadcasting organizations with licenses to perform local-level broadcasting activity, provided the areas mentioned are not neighbouring.

A natural or a legal person, a majority co-owner, a shareholder as well as a related person in a broadcasting organization may not be a founder or a co-owner, nor may he/she participate in the ownership of a publishing company that publishes a daily newspaper, a news agency, an investigation and security company, an advertising and promotion company, a market research and public opinion polling company, a film distribution company, a film production company, or a telecommunication services company.

Article 15

The Council shall determine the existence of illegal media concentration, except in cases falling under the jurisdiction of the Competition Protection Commission in accordance with the provisions of the Law on Protection of Competition.

If the existence of illegal media concentration is determined, the Council, shall order the broadcasting organization concerned to bring its status in line with the provisions on media concentration stipulated in this Law, within 3 months.

Should the broadcasting company fail to act upon the Council's orders, the Council shall implement a procedure to revoke the broadcasting license.

Article 16

A broadcasting organization shall not have a clandestine co-owner, i.e. a clandestine co-owner may not participate with monetary or non-monetary investment in a broadcasting organization.

Article 17

The broadcasting organization shall be bound to inform the Broadcasting Council about any changes in the ownership structure.

If, due to a change in the ownership structure, a broadcasting organization or a person related thereto should acquire a share representing more than 10% of the capital assets of another broadcasting organization, they shall be obligated, starting from the date at which the 10% threshold of capital was exceeded, to ask for an approval thereto from the Broadcasting Council.

The Council shall present the decision on any request for change of ownership structure within 60 days following the receipt of the proper and complete application. Should the Council determine that the planned change of ownership structure will create illegal media concentration, it shall recommend to the broadcasting organization concerned to adjust the changes in a manner that would avoid the creation of illegal media concentration.

If a broadcasting organization fails to act in compliance with the Council's recommendations and changes the ownership structure so as to cause situations such as the cases listed in Paragraph 6 of this Law, that organization shall be subject to the provisions of this Law related to the termination of validity of the license to perform broadcasting activity prior to its expiration date.

The Council shall not approve changes in the ownership structure if it deems that illegal media concentration will be created thereby, and especially:

- if the merging broadcasting organizations, by changing the shares of ownership structure belonging to natural persons or legal entities, acquire a dominant position in the advertising market in a way that their share in the sale of the total advertising time on radio or television exceeds 30%;

- if the merging broadcasting organizations, by changing the shares of ownership structure belonging to the natural persons or legal entities, acquire a dominant position in public opinion-making in a way that their share in audience ratings exceeds 40%;
- if the merging regional or local-level broadcasting organizations, by changing the shares of ownership of the natural persons or legal entities, achieve a maximum coverage of 50% of the population of the Republic of Macedonia.

The advertising market of Paragraph 6, line 1 of this Article shall be calculated on the basis of revenue indicators generated from advertising from all broadcasting organizations for the year preceding the merger.

The total coverage mentioned in Paragraph 6, indent 2 of this Article shall be calculated on the bases of indicators from regular audience surveys for all 12 months of the year preceding the merger.

The percentage of coverage of the population from Paragraph 6, line 3 of this Article shall be calculated on the basis of indicators from the Census of Population of the Republic of Macedonia.

Article 18

In terms of this Law, “related persons” shall denote persons mutually connected through management structure, capital assets or in another way, when such persons, due to their relations, jointly create the business policy and act in a coordinated manner for the purpose of achieving common goals, or when one person has the possibility to director significantly influence on other person in the process of deciding on business operation or programming concepts of the broadcasting organization concerned.

The following shall be deemed “Related persons”:

- family members (parents, off-spring, siblings, adoptive parents and adopted children);
- marriage and cohabitation;
- members of the spouse's immediate family, in laws;
- shareholders or holders of other rights on the basis of which they take part in the management of the broadcasting organization with at least 25% of the voting rights;
- persons with total ownerships of two broadcasting organizations or other rights on the basis of which they take part in the management of each of these two broadcasting organizations with at least 25% of the voting rights;
- persons who, on the basis of a marketing contract or another business cooperation contract, acquire more than 30% of the annual revenue from advertising, teleshopping, and sponsorship of the broadcasting organization;
- members of the broadcasting organization’s managing or supervisory board, as well as persons considered to be related to the members of the organization’s management or supervisory board in a manner determined by this Article.

Article 19

A foreign natural or legal person may establish or participate in the ownership structure of a national broadcasting organization under the same conditions determined by this Law applicable to national natural or legal persons.

Article 20

Broadcasting organizations shall have the duty, once a year, and not later than 31 March, to publish the following data related to their operation in the previous year:

- changes in the ownership structure;
- the broadcasting organization's statutory changes;
- changes in the governing and management bodies;
- funding sources.

Broadcasting organizations shall be bound to publish the data listed in Paragraph 1 of this Article at least one daily newspaper and on their own programme service, at least three times a year, at prime time.

Broadcasting organizations shall be bound to submit to the Broadcasting Council their financial reports from the previous year, by 31 March at the latest.

Upon request from the Broadcasting Council, the broadcasting organizations shall be bound to submit to the Council the data on the revenue generated from advertising, teleshopping and sponsorship, and data on the advertising and promotion companies through which they generated more than 20% of the revenues from advertising, teleshopping or sponsorship.

IV. THE BROADCASTING COUNCIL

Article 21

The Broadcasting Council is an independent regulatory body performing public competences in the field of broadcasting activity.

The Broadcasting Council is established as a non-profit legal entity with public competences established by this Law.

The Broadcasting Council, in the course of performing the functions laid out in this Law, shall ensure the freedom and pluralism of expression, existence of diverse, independent and autonomous media, the fulfilment of society's interests, economic and technological development of the activity, and protection of citizen's interests in the field of broadcasting activity.

The seat of the Council shall be in Skopje.

Article 22

To perform its competencies and to further elaborate on certain provisions this Law, in order to provide for their full implementation, the Broadcasting Council shall adopt Rules, Recommendations, Guidelines, Decisions, Conclusions, adopts Positions and Proposals and issues Opinions.

The legally binding acts of the Council shall be published in the “Official Gazette of the Republic of Macedonia”.

Article 23

The Broadcasting Council shall consist of 9 members.

The members of the Broadcasting Council shall be elected by the Assembly of the Republic of Macedonia with majority vote from the total number of Members of Parliament.

Article 24

The Assembly shall elect the Council members upon the nominations from authorized nominators.

The authorized nominators nominate two candidates for each seat in the Broadcasting Council that is being elected.

Candidate-members of the Council shall be persons with expertise in the fields of communication sciences, journalism, telecommunications, information technology, culture, economy, law, and in other fields of relevance for performance of the competencies of the Broadcasting Council.

The Broadcasting Council shall ensure the fair representation of the members of the ethnic communities in the Republic of Macedonia.

Article 25

The following persons may not be elected members of the Council:

- Members of Parliament, Members of Government, senior officials in the public administration or local self-government, executives or members of managing or supervisory boards of public enterprises;
- persons performing duties in the governing bodies of political parties and religious communities;
- persons who are owners/shareholders, members of governing bodies, or who have a direct or indirect interest in a legal person performing broadcasting activities or in a company performing related activities (advertising, electronic communications, production and sales of broadcasting technical equipment, etc.);

- persons whose family members (parents, siblings, spouses, off-spring) own shares or are members of managing bodies in a broadcasting organization;
- persons lawfully sentenced to a term in prison for a period longer than 6 months or to whom a Prohibition of performing profession, activity or duty" is pronounced, for a period longer than six months.

The candidate for member of the Broadcasting Council shall be obligated to submit to the authorized nominator a statement verified by a Notary Public, confirming that no impediments listed in the previous paragraph of this Article exist to his/her membership in the Council.

Article 26

Authorized nominators, as pursuant to Paragraph 1 of Article 24, shall be:

- the Macedonian Academy of Sciences and the Arts;
- the Inter-University Conference;
- Majority Journalist Association of Macedonia;
- Majority Consumers' Organization
- The President of the Republic of Macedonia;
- The Elections and Nominations Commission of the Assembly of the Republic of Macedonia.

Article 27

The Macedonian Academy of Sciences and the Arts shall nominate candidates for one seat in the Broadcasting Council.

The Inter-University Conference shall nominate candidates for three seats in the Broadcasting Council.

The majority Journalist Association of Macedonia shall nominate candidates for one seat in the Broadcasting Council.

The majority consumers' organisation nominates candidates for two seats.

The Elections and Nominations Commission of the Assembly of the Republic of Macedonia shall nominate candidates for two seats in the Council.

Article 28

Council members shall be elected for a 6-years term of office, whereby the members of the first composition of the Council, elected according to the provisions of this Law, shall be elected in the following manner: three members shall be elected for a 2-years term of office, three members shall be elected for a 4-years term of office, and three members shall be elected for a 6-years term of office.

Council members nominated by the Elections and Nominations Commission of the Assembly of the Republic of Macedonia and by the majority Journalist Association of Macedonia shall be elected for a two-years term of office; Council members nominated by the Macedonian Academy of Sciences and Arts and by the majority consumers' organization shall be elected for a 4-year term of office; while Council members nominated by the Inter-University Conference shall be elected for a 6-year term of office.

Members of the Broadcasting Council shall not have the right to re-election.

Should a Council member resign or his/her term of office cease prior to the expiration the term for which she/he is elected, the Parliament of the Republic of Macedonia shall elect a new Broadcasting Council member for the remaining part of the term.

Article 29

The Assembly of the Republic of Macedonia shall publish a public announcement to authorized nominators to submit proposals for Broadcasting Council member-candidates no later than 6 months prior to the expiration of the term of office of previous Broadcasting Council members.

Authorized nominators shall be obligated to submit their proposals to the Assembly within 2 months following the date of the public announcement.

A list of candidates for members of the Broadcasting Council shall be composed on the basis of proposals submitted by authorized nominators, and it shall be published in the media and on the Website of the Assembly of the Republic of Macedonia.

The Appointments and Elections Committee, within 1 month, composes a proposed list of candidates for members of the Broadcasting Council, having in mind thereto the results of the public debate and the criteria established in Articles 24 and 25.

The Assembly shall elect new Council members, voting for each candidate on the list separately, One month prior to the expiration of Broadcasting Council members' term of office.

Article 30

The Council shall elect a President and a Deputy President from the ranks of its own members.

The President and the Deputy President shall be elected for a term of office equal to the term of office of the Council members.

The Broadcasting Council members shall be adequately remunerated on monthly basis.

The Council shall determine the level of remuneration bearing in mind that this amount may not exceed the sum amount of two average monthly salaries paid in the last three months in the Republic of Macedonia.

Article 31

The President of the Broadcasting Council chairs the meetings of the Broadcasting Council, and presents and represents the Broadcasting Council, while in cases of his/her absence or inability, the obligations are performed by the Deputy President of the Broadcasting Council.

The decisions of the Broadcasting Council are signed by the President of the Broadcasting Council, or, in case of their inability, the Deputy President of the Broadcasting Council.

Article 32

Members of the Council may resign from office.

Members of the Council shall not be dismissed prior to the expiration of his/her terms of office, except in the following cases:

- If he/she is not able to participate in the work of the Council for a period longer than six months due to illness;
- If one of the impediments for Council membership listed in Article 26 has occurred;
- If he/she is absent 3 consecutive Council sessions, or in 5 Council sessions in the course of six months without justifiable reason.

The termination of the term of office in the cases referred to in the previous Paragraph hereunder shall be determined by the Assembly of the Republic of Macedonia upon the proposal from the Council.

Article 33

The work of the Broadcasting Council is public.

Unless otherwise specified by this Law, the Council shall work and decide on public sessions; decisions shall be made with majority vote of the total number of members.

The Broadcasting Council is obligated to publish: the strategy for development of the broadcasting activity in the Republic of Macedonia, the (job) competitions, number of applications, decisions, minutes, proposed agendas for the sessions, in the media and on the website of the Broadcasting Council, and to inform the public about its operation, through the media, at least quarterly.

The Broadcasting Council shall organize public meetings at least twice a year, with all stakeholders, in order to provide them with the opportunity to be informed about the operation of the Council and to give them opportunity to share their views and opinions on the advancement of the situation in the broadcasting activity.

Article 34

The annual financial plan for the work of the Broadcasting Council shall be approved by the Assembly of the Republic of Macedonia.

The Council shall submit annual reports on its work to the Assembly of the Republic of Macedonia, including a rationale on the material and financial operations.

Article 35

A Book of Rules and Statute adopted by the Broadcasting Council shall more closely regulate the work of the Council.

To perform the expert and administrative duties of the Broadcasting Council a professional service is established, the internal organization and the mode of operation of which shall be closely regulated by the Acts on Organization and Systematisation of the Activities and Tasks.

Article 36

The operational costs of the Council shall be covered by funds levied from the broadcasting fee and duties from the licences to perform broadcasting activity.

Article 37

The Broadcasting Council shall perform the following tasks:

- 1) Develops the strategy for the development of the broadcasting activity in the Republic of Macedonia, which, after a public debate, is submitted to the Assembly of the Republic of Macedonia for adoption, and ensures the implementation thereof;
- 2) Decide on awarding, revoking, and renewing licenses for performing broadcasting activity;
- 3) Give consent to the Plan for Allocation of Radio Frequencies, in particular to the part thereof related to broadcasting;
- 4) Supervise the work of broadcasting organizations in terms of their compliance with the provisions of this Law, their licenses to perform broadcasting activity, and Council Acts related to programme service contents;
- 5) Adopts rules, issues recommendations, guidelines, decisions, conclusions, and other acts, provide positions and proposals, and give opinions on the implementation of the Broadcasting Activity Law;
- 6) Informs the body in charge of copyrights protection when it suspects that a violation of copyrights or related rights has been perpetrated, of which it possesses evidence
- 7) Decides upon appeals and other petitions lodged against decisions issued by the Broadcasting Council.

- 8) Reviews petitions from citizens related to radio and television programmes and programming services re-transmitted through the public communication networks and related to the operation of the broadcasting organizations, and regularly informs the public about the measures undertaken;
- 9) Takes legal measures against broadcasting organizations that failed to fulfil their obligations specified by the Law, the license to perform broadcasting activity, and the Broadcasting Council Acts;
- 10) Issues an opinion and participates in drafting of laws, regulations and other acts related to the broadcasting activity, as well as in the course of conclusion or acceding of the Republic of Macedonia to international agreements in the area of broadcasting;
- 11) Approves a list of events of special interest to the public in the Republic of Macedonia and undertakes measures to protect the right to access to these events for the public, to prevent an individual broadcasting organization, through acquisition of the exclusive right to broadcast the event, to deprive a significant portion of the population from the possibility to follow the event.
- 12) Undertakes measures established by law to prevent the illegal concentration of ownership in the media and to stimulate the competition and pluralism in the media, in accordance with this law;
- 13) Issues certificates for performed registration of radio and television programming services which are re-transmitted through a public communication network.
- 14) Adopts and implements measures established by this law, files misdemeanour charges and performs other tasks, as provided by this Law or other laws.
- 15) Adopts the Annual Financial Plan and the Annual Report on Operations proposed by the Director and by 31 March at the latest in the current year is submitted to the Assembly of Republic of Macedonia.

For the Broadcasting Council to be able to perform the competencies listed in Paragraph 1 of this Article, the public administration bodies, local self-government units, and the institutions established in accordance with the law shall be obligated to submit to the Council the necessary documents, data, and information, upon its request.

Article 38

The professional service is managed by a director.

The director is appointed by the Broadcasting Council, through an open competition.

The Director of paragraph 3 of this Article must be a national of the Republic of Macedonia, with completed university education, working experience of more than 5 years, and to possess organizational and management capacities.

The Broadcasting Council has the duty to appoint a director not later than within 30 days before the expiry of the terms of office of his/her predecessor.

The director, his/her spouse or out of wedlock partner, as well as close relatives in a direct line to the second level can not own shares, stock or other economic interest in an entity which falls under direct competence of the Broadcasting Council.

The Director is a full-time employee of the Council.

The term of office of the Director shall be five years, with a possibility for one additional successive terms of office.

The Director can submit a resignation from his/her office, in writing.

If the term of office of the director has expired, and the procedure for appointment of a director is not completed, the director shall continue to perform the office until the appointment of the new director, but not longer than six months.

The director performs the following tasks:

- (1) Makes decisions on issues within his/her competence;
- (2) Proposes acts adopted by the Broadcasting Council, which are related to the operation of the professional service;
- (3) Appoints the management personnel in the professional service;
- (4) Organizes the monitoring of radio and television programmes in terms of their harmonization with the fundamental principles, programming requirements and other conditions stipulated in this law, with the licence to perform broadcasting activity and the acts of the Broadcasting Council;
- (5) Requests from the entities performing broadcasting activity information and documents needed to perform his/her tasks;
- (6) Organizes the monitoring of the situation in the broadcasting activity and submits to the Broadcasting Council initiatives, proposals, opinions and proposed measures to advance and develop the activity;
- (7) Organizes compiling a list of events of special interest for the public in the Republic of Macedonia and submits it to the Broadcasting Council for its approval and proposes measures for protection of the right to access of the audience to these events, to prevent any broadcasting organization, through acquisition of exclusive rights to broadcast the event, to deprive a significant portion of the population from the possibility to follow the event;
- (8) Organizes keeping of a register of bonds to pay the broadcasting fee;
- (9) Organizes keeping of a register of issued permits to perform broadcasting activity;
- (10) Organizes keeping of a register of packages of radio and television programme services re-transmitted through the public communications network;
- (11) Submits to the Council a Proposal for the Annual Financial Plan and the Annual Report on Operations.
- (12) Performs other tasks, as determined by this Law and the Statute of the Broadcasting Council;

The director is present and participates in the meetings of the Council, without the right to vote.

Article 39

The director may be dismissed by the Broadcasting Council before the expiry of the period for which she/he was elected, in the following cases:

- (a) upon her/his request;
- (b) in case of inability to perform the office due to illness, for a period longer than six months;
- (v) accepting an office or a job which is incompatible with the office of a director;
- (g) is she/he is sentenced for a criminal offence for which an imprisonment sentence in duration longer than six months is pronounced, or if she/he is pronounced a security measure for a committed misdemeanour, prohibition to perform a profession, activity or duty, for a period longer than six months;
- (d) violation of the provision of this law, or the regulations based on it;

The Director against whom a dismissal procedure is initiated shall be informed in advance about the potential suspicions and shall be given an opportunity to defend him/herself before the Broadcasting Council.

Article 40

The Broadcasting Council, when performing its tasks, cooperates with other state bodies and organs on issues related to the broadcasting activity.

The Broadcasting Council, the Agency for Electronic Communications and the Committee for Protection of Competition have the duty to exchange data and information necessary for the performance of their competences, the scope of exchange of information of which is limited to data and information which are adequate and proportional to the purposes for which they are exchanged.

The Broadcasting Council can exchange information that it has available with the other regulatory bodies, upon their request, on the condition that the information exchanged are within the competence of the other regulatory body, and that they are exchanged under the conditions and in the manner determined in paragraph (2) of this article.

V. LICENSE FOR PERFORMING BROADCASTING ACTIVITY

Article 41

The license for performing broadcasting activity (hereinafter referred to as “the License”) is issued for broadcasting and transmission of a given radio or television programme service,

irrespective of the technical means of transmission, under the conditions, manner and procedure determined by this Law.

Article 42

The license is an authorization with the obtaining of which the holder acquires the right to broadcast a certain radio or television programme service designated for reception by the public. The license shall regulate the programming service structure.

Article 43

The procedure of license awarding shall be transparent and conducted in a manner to ensure fair, equal, and non-discriminatory treatment of all participants in the procedure.

The Broadcasting Council may publish the data on the ownership structure, ownership of shares in other broadcasting organizations, and funding sources of all participants in the competition for awarding licenses for performing broadcasting activity.

Article 44

The open competition procedure shall start with the adoption of a Decision to publish a competition for granting licenses for performing broadcasting activity by the Broadcasting Council.

The decision to announce a public competition for granting licenses for performing broadcasting activity shall be published in “Official Gazette of the Republic of Macedonia”, the Council’s Website, and in, at least, two daily newspapers.

Article 45

The decision to announce an open competition shall be made in compliance with the Strategy for Broadcasting Development in the Republic of Macedonia and the plans for allocation of radio frequencies.

The decision mentioned in paragraph 1 of this Article needs to be in accordance with the Plan for Awarding and Utilization of Radio Frequencies, if the open competition is related to awarding licences to perform broadcasting activity via radio-frequencies.

Prior to the adoption of the Decision to Publish the Open Competition, the Broadcasting Council shall perform a public survey and an analysis regarding the type of programming services regarding which the open competition needs to be published, considering the aspects of needs of public, and it may run consultations with the stakeholders.

Article 46

The Council shall determine the number of licenses i.e. radio and television services for which the open competition is being announced, on the basis of the following criteria:

- ensuring programming services diversity and quality;
- meeting the needs of the audience;
- developing pluralism;
- economic potential of the market and encouraging fair competition; and
- technical resources and facilities.

Article 47

The decision to announce an open competition for awarding licenses for performing broadcasting activity shall contain the following:

- the type of activity (radio/television) for which the competition is announced;
- the level of coverage (national/ regional/ local);
- the technical facilities used to broadcast/transmit the programming services (terrestrial transmitter, public communication network, satellite, digital terrestrial network, etc.);
- geographic area to be covered by the activity performed;
- the contents (format) of the programme service;
- the number of licenses for specific radio and television services;
- the license duration;
- the conditions and requirements to be met by applicants (bidders) in order to perform the activity concerned;
- the fundamental technical requirements, standards, and parameters on broadcasting determined in compliance with the Law on Electronic Communication;
- the amount and manner of payment of the fee for the license to perform broadcasting activity;
- the time and place to obtain the tender documentation, including the amount and manner of payment for the documentation concerned;
- the deadline for bid submission;
- the documentation to be submitted together with the bid.

Article 48

The tender documentation shall contain general, technical, production, programming, and other requirements to be met by applicants, in particular:

- programme-related conditions and requirements to be met by applicants` bids;
- the requirements related to the financial capacity necessary to perform the activity;
- the amount and manner of payment of the fee for the license to perform broadcasting activity;
- the basic technical requirements, standards, and parameters for the studio part;
- the basic technical conditions, standards, and parameters on broadcasting determined in compliance with the Law on Electronic Communication;
- the criteria for comparison and evaluation of applications, and the weighting of criteria in bid evaluation;
- the contents of the application;
- the instructions for completion of application forms;

- manner and form of submission of applications.

Article 49

The applicants shall submit their applications on a special form prescribed by the Council.

The applicants shall enclose the following documents and data to their bids:

- the name and surname, address, fax number, e-mail, and citizenship certificate of the applicant;
- the company and seat of the legal person if the applicant is a legal person;
- proof of legal person registration;
- data on the ownership structure;
- data i.e. proof that requirements prescribed by the law for performing the activity have been met i.e. proof that no obstacles exist to perform the activity;
- a precise business plan (programme project, technical project including a description of current and planned studio equipment, in particular such equipment related to production, and data on current and planned staff structure);
- documents guaranteeing the financing of the business plan i.e. the activity;
- a document issued by competent authorities confirming taxes paid by the applicant and its solvency;
- data on share ownership in other broadcasting organizations;
- a statement by the applicant, certified by a Notary Public, that the former is going to adhere to basic technical conditions, standards, and parameters determined by the Law on Electronic Communication;
- a statement by the applicant, certified by a Notary Public, that the former is not violating the provisions stated in Chapter III- Protection of Pluralism and Diversity of Broadcasting Organizations;
- other data and documents considered by the applicant to be relevant to the license award decision-making process.

Article 50

All applications shall be submitted within the deadline specified in the Decision for announcing the competition.

The period specified for submission of applications must allow the applicant to prepare a high quality bid and shall not be shorter than 1 month, or longer than 3 months.

The time period for submission of applications shall run from the day following the publishing of the Decision in the "Official Gazette of the Republic of Macedonia".

Article 51

In the course of making a decision to award a license, the Council shall evaluate the bids on the basis of the following:

- the programme structure of the radio or television programming service offered;
- the genre and thematic diversity of programme service contents, the percentage of in-house production programmes in the total daytime programming planned to be broadcasted, the participation of programmes treating events and cases of relevance for the area covered, and the participation of national and European audiovisual works;
- the participation of programme services encouraging national production, national culture, etc.;
- technical requirements for programme production and broadcasting in compliance with prescribed standards;
- space conditions required to perform the activity;
- number and structure of human resources required to perform the activity;
- financial capacity to perform the activity within the licence period covered by the guarantee enclosed;
- other offered conditions contributing to the promotion of pluralism in the broadcasting activity, encouraging fair competition and better exercising of the right to information, and meeting audience demands within a given area.

Article 52

On the basis of bid submissions and the criteria specified in Article 46 of this Law, the Council shall, within 60 days, decide with majority vote out of the total number of its members, to grant licenses for performing broadcasting activity.

Article 53

The Decision to grant a license shall be published in the "Official Gazette of the Republic of Macedonia".

Unsuccessful bidders shall be notified in writing.

Article 54

Bidders that are not satisfied with the Decision may lodge a complaint to the Broadcasting Council.

The complaint shall be lodged within 15 days upon notification.

The complaint shall delay the enforcement of the Decision.

The Council shall decide on a complaint lodged with a two-third majority vote.

The Council shall be obligated to present its position on the complaint lodged within 15 days of the date of its receipt.

Bidders in the competition shall be entitled to initiate administrative proceedings against the final decision of the Council.

Article 55

On the basis of the Decision to grant a license for performing broadcasting activity published in the “Official Gazette of the Republic of Macedonia”, the legal or natural person to be awarded the license shall be registered at the commercial or the court registry as a commercial broadcasting company.

On the basis of the Decision for awarding a license and the court registration the competent authority in the field of electronic communication and by the competent authority in the field of urban planning and construction will issue the necessary permits and approvals.

The license for performing broadcasting activity shall be issued by the Council on the basis of court registration document enclosed and permits issued by the competent bodies in the field of electronic communications and in the field of urban planning and construction.

Article 56

The licence for performing broadcasting activity must contain the following data:

- data on the holder of the licence;
- technical means for transmission;
- service zone and the location of the technical means;
- identification mark;
- programme conditions;
- duration of validity of the licence;
- amount of duties and manner of payment;

Article 57

The licence to perform broadcasting activity, based on the scope of coverage, can be awarded on national, regional and local level.

A commercial broadcasting company, in accordance to the granted licence for performing broadcasting activity may, broadcast that same programme service via a satellite, upon a previously submitted notice to the Broadcasting Council.

Article 58

The licence to perform broadcasting activity for the commercial broadcasting companies is granted for a period of 9 years.

The licence to perform broadcasting activity for non-profit purposes is granted for a period of a minimum of six months, up to the maximum of 2 years.

Article 59

The permit to produce and/or broadcast programme services via a digital terrestrial transmitter shall be granted upon the adoption of the Strategy for Broadcasting Activity Development in the Republic of Macedonia as defined in Article 37, paragraph 1, indent 1 of this Law.

Article 60

An annual duty shall be paid for the licenses, to the bank account of the Broadcasting Council.
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The amount of duty for the licence to perform broadcasting activity is determined on the basis of the following criteria: number of total population in the service zone as defined by the Licence, type of service (radio or television), and the format of the broadcasting service.

The amount of the duty is expressed in points.

The value of one point amounts to one EURO, calculated in denar exchange value according to the median exchange rate for the EURO at the National Bank of the Republic of Macedonia on the day of payment.

The mode for calculation and the number of points determining the amount of the duty for the licence to perform broadcasting activity is determined through a Decision of the Broadcasting Council.

Before adopting the Decision mentioned in paragraph 4 of this Article, the Broadcasting Council informs in writing all concerned entities about the possibility to submit to the Council their opinions and proposals in relation thereto. The deadline for submission of the opinions and proposals must be neither shorter than 15 days, nor longer than 30 days from the date of delivery of the information.

The duty will not be prohibitively high in terms of development of broadcasting activity and diversity of the offering in terms of ownership and programme.

The annual duty for the licence is paid for one year in advance, starting from the date of awarding the Licence for performing broadcasting activity.

Article 61

For utilization of the radio-frequencies, a duty is paid pursuant to the Law on Electronic Communications.

Article 62

The license shall cease to be valid:

- with the expiry of the term for which it was originally granted;

- with the submission of a written statement by the license-holder informing the Council that it has ceased broadcasting the radio or television programme service;
- if the License was revoked.

Article 63

The Broadcasting Council may revoke the license in the following cases:

- if the candidate provided incorrect data on the basis of which the license was granted;
- if the license-holder fails to start broadcasting programming services within 6 months;
- if the license-holder ceases to broadcast programme services for a period longer than 1 month without any justifiable reason;
- if, once the license has been issued, circumstances arise representing legal obstacles to prevent the license-holder from performing the broadcasting activity;
- if, following license granting, bankruptcy or liquidation should occur with the legal person that is the license-holder;
- if the license-holder, having received a written notice from the Council, fails to pay the license fee;
- if the license-holder fails to comply to the requirements and obligations for performing the activity determined by the law and by its license, and fails to act in the time period specified in line with the requests and measures imposed by the Broadcasting Council;
- if the license-holder fails to meet the technical standards applicable to studio equipment necessary for programme broadcasting, or fails to adjust its technical facilities to relevant technical standards within a specific period;
- if the license-holder violates the provisions against unlawful media concentration;
- if the license-holder fails to respect copyrights.

Article 64

The Council shall be obligated to reach a decision on license revoking within 15 days from the date on which a procedure was initiated thereto.

The Broadcasting Council shall decide on revoking a license with majority vote of the total number of members.

The Decision to revoke a license shall be elaborated and published.

Article 65

The license-holder shall be entitled to lodge a complaint to the Council against the Decision to revoke its license within 15 days from the receipt of the Decision.

The Council shall, within 15 days, decide on the acceptance of a complaint lodged, with a two-third majority vote out of the total number of members.

The complaint shall defer the enforcement of the Decision.

The license-holder shall be entitled to judicial protection against the Council's final Decision for license revoking.

Article 66

The license shall be renewed upon request from the license-holder.

The license-holder shall submit the request for license renewal not later than 6 months prior to the expiry date of the license.

The Broadcasting Council shall decide on license renewal on the basis of its assessment of the success and quality of broadcasting activity performed in the period of license validity, and of license-holder's compliance with the requirements and duties stipulated in this Law, the Law on Electronic Communications, the Law on Copyrights and Related Rights, the License, and the Council Acts.

The Council shall be obligated to make a Decision upon the request of the license-holder within 60 days prior to the expiry date of the License.

The Council shall decide with majority vote out of the total number of members.

The license-holder shall be entitled to submit an appeal against the decision rejecting its request for license renewal within 15 days.

Upon appeal submitted, the Council shall decide on the acceptance thereof, with a two-third majority vote out of the total number of members.

The license-holder shall be entitled to judicial protection against the Council's final decision.

VI. PROGRAMME STANDARDS

Article 67

Broadcasting organizations shall perform their activity through broadcasts of radio or television programmes.

Article 68

Radio and television programming services shall be based on the following principles:

- the right to free reception and transmission of information, and the right to freedom of expression;
- fostering and developing of humane and ethical values of human beings, and protection of individual privacy and dignity;
- equality of freedoms and rights irrespective of the sex, race, national, ethnic or social affiliation, political and religious convictions, wealth and social status of the individual and of the citizen;

- encouraging the spirit of tolerance, mutual respect and understanding between individuals of different ethnic and cultural backgrounds;
- encouraging international understanding and cooperation, and the public notion of fairness and protection of democratic freedoms;
- openness of programmes to express different cultures that are integral parts of the society;
- preserving and fostering national identity, language culture, and national (artistic and cultural) creation;
- openness to different political views and attitudes;
- objective and unbiased presentation of events, with equal treatment of different views and opinions, enabling free public opinion making concerning particular events and issues;
- respect for copyrights and associated rights;
- respect for confidentiality of sources of information;
- ensuring the right to reply and correction;
- autonomy, independence, and accountability of broadcasting organizations i.e. editors, journalists, and other authors involved in programme creation and in editorial policy.

Article 69

Programme contents which are aimed at violent overthrowing of the constitutional order of the Republic of Macedonia or which encourage or invite to military aggression or incite to national, racial, or religious hatred and intolerance shall be prohibited in the programmes of broadcasting organizations, non-for-profit broadcasting organizations, as well as in programmes being re-broadcast by public communication networks.

Article 70

Programmes of broadcasting organizations may not contain pornography.

Programme services with pornographic contents may be transmitted via public communication networks in encrypted forms only.

Excessive violence is prohibited in programme contents.

Excessive violence shall mean sending out textual, verbal, and visual messages which, in time periods available to juveniles, glorify physical, verbal or psychological forms of sadism or similar forms of violence that is an aim in itself, and that can in no way be justified by the context or the genre, or by the motives of fiction in the programme being broadcast.

Article 71

Programming contents that could seriously impair physical, intellectual, and moral development of juveniles may be broadcasted only in the time slot between 22:00 and 05:00 hours.

Programmes mentioned in paragraph 1 must be labelled before the start of their broadcasting, with an acoustic and visual warning noting that they are not recommended for certain audience segments.

The manner of categorisation, the forms of audio-visual presentation, including the time slots listed in paragraph 1 of this Article, for broadcasting contents that could be harmful to the physical and moral development of children and adolescents, shall be determined by the Broadcasting Council by mandatory rules, as stipulated by this Law and the international documents that are binding for the Republic of Macedonia.

Article 72

The Public Broadcasting Service and the commercial broadcasting companies performing activities on a national level shall be obliged to at least 18 hours per day of radio programme services, and at least 12 hours per day of television programme services.

By way of derogation of Paragraph 1 of this Article, additional programme services of the Public Broadcasting Service specified in Article 117, Indent 6, may broadcast smaller number of programme hours daily.

The Commercial Broadcasting Services performing activities on a regional level shall be obligated to broadcast, at least, 12 hours radio programme services per day, and at least 8 hours television programme daily.

The Commercial Broadcasting Services performing activities on a local level shall be obligated to broadcast, at least, 10 hours radio programme services per day, and at least 6 hours television programme daily.

Non-profit broadcasting institutions shall be obligated to broadcast, at least, 4 hours radio programme per day.

Daily programme, in terms of paragraphs 1, 3 and 4 of this Article, shall not mean broadcasting still pictures or signals.

Article 73

Broadcasting organizations shall be obliged to broadcast, at least, 20% in-house produced programme per day, unless stipulated otherwise in the broadcasting license.

In-house production shall include premiers and first replays of domestic audiovisual works and they shall be appropriately marked.

Article 74

Broadcasting organizations shall be obligated to allocate at least 20% of the overall purchased programme per annum for European audiovisual works.

Article 75

The use of telephone services with special charges shall not be allowed in the programmes of the Public Broadcasting Service and the non-profit organizations.

By way of derogation of Paragraph 1 of this Article, the Public Broadcasting Service may use telephone services with special charges for the purpose of televoting when broadcasting events of great importance.

Telephone services with special charges, including televoting in the programmes of Commercial Broadcasting companies shall not be used in news programmes, current events, educational and children's programmes.

Article 76

Public Broadcasting Services shall not organize nor broadcast lottery games of chance (lotto, sport betting, lottery, instant tickets, tombola and bingo), nor sport games with betting.

A broadcasting organization can broadcast games of chance with lottery organized only by an entity which holds a licence from a competent authority to organize games of chance.

Article 77

Broadcasting organizations and non-profit broadcasters shall be obligated to produce and broadcast programme services with regulated copyrights and related rights.

Upon the request of the Council or other competent authorities, the broadcasting organizations shall be obligated to present the documents of regulated copyrights and related rights.

Article 78

Broadcasting organizations may broadcast (simultaneously or delayed) events of great importance, domestic or foreign, on the basis of exclusive rights, only if the broadcasting of that specific event does not restrict the right of a greater portion of the population to follow that event.

Events of great importance are:

- **Winter and Summer Olympic Games;**
- **Semi-final and final matches of World and European championships, as well as other matches where the Macedonian team is involved, including qualifying matches;**
- **Other sport matches where the Macedonian team plays in official tournaments and competitions, as well as matches of Macedonian clubs.**

The Council, by means of a special Decision, may define and amend a list of events of great importance.

If an event of special importance is organized in parts, each part of that event shall be deemed an event of great importance.

The provisions of this Article shall also apply to delayed transmission if the delayed transmission does not exceed 24 hours, especially if:

- **the time of the event of great importance is within the period of 24.00 to 06.00 before the official time in the Republic of Macedonia;**
- **the times of events of great importance or their parts overlap.**

Article 79

Broadcasting organizations performing an activity on a local level may connect into a single system for transmission of joint programming services, provided that a prior approval by the Council is obtained, but not in excess of 4 hours in the course of 24 hours.

The connected broadcasting organizations shall be obliged to submit a programme concept for joint programming and to appoint an editor-in-chief for the programme.

Article 80

The Public Broadcasting Service shall be obligated to cover the election campaign.

The public broadcasting service and the commercial broadcasting companies that decided to cover the elections shall have to do so in a fair, balanced and unbiased manner throughout their overall programme services.

In the course of an election campaign, the broadcasting organizations shall be obligated to enable equal conditions for access to all forms of media presentation for the organizers of the campaign as stipulated in their rules and technical requirements and capacity.

The public broadcasting service and the commercial broadcasting companies that have decided to cover the elections shall be obligated to adopt their own rules on the basis of the principles of independence, autonomy, independent editorial policy, and accountability for media coverage of elections, and to broadcast these rules on the programmes.

The Council shall propose Guidelines on Media Coverage of the Election Campaign to the Parliament through the Broadcasting Organisations.

Article 81

Broadcasting organizations shall have their own name, trademark and abbreviated identification signs.

The name, trademark or abbreviated identification sign (aviso, logo etc.) of the broadcasting organization must be continuously displayed on the screen during the broadcasting of the television programming services, while broadcasted radio programme services must send out these signs at least once per real hour.

In the cases of broadcasting organizations with a single network programme service, the identification sign shall be displayed in the course of the broadcast.

Broadcasting organizations shall not use names or trademarks that do not correspond to their registered name and trademark.

Broadcasting organizations, having obtained the license to perform broadcasting activities and following all subsequent changes of the identification signs, shall be obliged to submit a copy of the identification signs to the Broadcasting Council and the regulatory body responsible for electronic communications.

Article 82

The broadcasting organizations shall broadcast programme services in Macedonian language, whereas in the cases of programme services intended for a non-majority community, the language of that community shall also be used.

The structure of the programme on the basis of the language of the broadcasts shall be regulated in more details in the broadcasting license.

If the programming services broadcasted by the public communication networks are subtitled in a language other than the original language produced, they must be subtitled in Macedonian language.

Article 83

Foreign programme services or items of foreign programme services broadcasted by broadcasting organizations shall be translated into Macedonian language, or into the language of the respective non-majority community.

The provisions from Paragraph 1 of this Article shall not apply to broadcasts of musical or stage performance programmes, educational programmes for learning foreign languages, as well as to programmes intended for foreigners.

Parts of programmes that are not translated shall be announced in Macedonian language, or in the language of the respective non-majority community.

Article 84

Every broadcasting organization shall have an editor-in-chief the who will be responsible for the programme contents broadcasted and the accuracy of every information broadcasted in the programme.

If the broadcasting organization has several editors, each of them shall be held responsible for their respective programme contents he/she is in charge of.

The name and the surname of the Editor-in-Chief and the Programme-Editor shall be displayed at least once per day on the programme services of the broadcasting organizations.

Article 85

The broadcasting organizations shall be obligated to keep daily records of the broadcasted programme services and to record them, while full records of the programme service shall be kept at least 30 days after broadcasting.

Should a dispute arise, in terms of the right to reply and correct, the recorded materials shall be kept until the announcement of the reply or correction, i.e., until the dispute has been resolved.

VII. ADVERTISING, TEleshopping AND SPONSORSHIPS

Article 86

Broadcasting organizations shall be entitled to produce and broadcast advertisements, teleshopping and sponsored programme services in accordance with the conditions determined by this Law.

Article 87

Advertising and teleshopping shall comply with the legal provisions regulating the field of fair competition.

Advertising and teleshopping shall be accurate and honest, it may not mislead the public, and must not be directed against the interests of the purchasers, i.e., service consumers.

Article 88

Advertising and teleshopping addressing or involving children shall not contain messages that could harm their interests and be detrimental to the development of children due to their sensitivity.

Advertising and teleshopping shall not:

- **directly encourage juveniles to purchase goods or services through abuse of their inexperience and innocence;**
- **directly encourage juveniles to demand from their parents and other persons to purchase advertised goods or services;**

- **abuse the special trust that juveniles have in their parents, teachers or other persons;**
- **present juveniles in dangerous situations.**

Juveniles shall not be involved in paid political advertisements in the course, or beyond, the period of the election campaign.

Article 89

Advertising and teleshopping shall not:

- threaten human dignity;
- be based on emphasis of national, ethnic, religious, gender, racial or other differences;
- induce behaviour that presents a health or safety hazard;
- induce behaviour detrimental to the environment.

Article 90

The clients, i.e., the orders of advertisement or teleshopping, including the sponsors, shall not influence the contents of the programme service in a manner that may restrict the independence or the responsibility of the broadcasting organization.

Article 91

The duration of advertising on the public broadcasting service shall not exceed 7% or 4 minutes and 12 seconds of each real hour of broadcasted programme services, and shall not be longer than 7% of broadcasted programme services per day.

The Public Broadcasting Service shall not interrupt programme services for the purpose of advertising, except for film, sport and entertainment programmes.

Article 92

The public broadcasting service shall not advertise political parties and candidates.

The public broadcasting service and the non-profit broadcasters shall not broadcast teleshopping.

No advertising is allowed in the programmes of non-profit broadcasters.

Article 93

The percentage of commercial, teleshopping and other forms of advertising, with the exception of teleshopping windows and paid political advertisement in the course of an election campaign, in the programmes of commercial broadcasting companies shall not exceed 20% of broadcasted time per day.

The duration of commercial advertisements shall not exceed 15% of broadcasted time per day.

The duration of commercial spots, teleshopping and other forms of advertising shall not exceed 20% or 12 minutes of broadcasting for one real hour.

Article 94

Teleshopping windows may last, without interruptions, minimum 15 minutes and maximum 40 minutes.

The maximum number of windows shall be eight per day.

The total duration of teleshopping windows shall not be longer than three hours per day.

In the periods, i.e., in the real hour broadcasts of teleshopping windows, broadcasting of commercial advertisements, teleshopping and other forms of advertising shall not be permitted.

Teleshopping windows shall be clearly separated from the other part of the programme services by optical and acoustic means.

Radio stations may broadcast teleshopping spots only.

Article 95

In the course of an election campaign, by means of a separate decision, the Council may permit up to 20% additional time for paid political advertising daily, i.e., 20% or 12 minutes additional time for broadcasting paid political advertising for one real hour.

Article 96

The scope of advertising, determined in Articles 91 and 93, shall exclude:

- Promotional announcements and spots of the broadcasting organization referring to its own programme;
- Announcements of cultural events, campaigns of public interest and appeals for charitable purposes that the broadcasting organization broadcasts free-of-charge;
-

Free-of-charge commercials broadcasted shall be separately labelled.

Article 97

Advertisements and teleshopping shall be clearly distinctive and separated from the other part of the programme services.

Advertising and teleshopping spots, by rule, shall be broadcasted in blocks.

Advertising and teleshopping shall not use subliminal techniques.

Advertising with new commercial techniques (advertising on split screens, virtual advertising, interactive advertising etc.) shall be regulated with special rules adopted by the Broadcasting Council.

Article 98

Surreptitious advertising and implicit teleshopping shall be prohibited.

Surreptitious advertising shall mean presentation, in the form of words or pictures, of goods, services, of the name, trademark or activities of a producer of goods or service-provider, when such a presentation has commercial purposes and, by its nature, can mislead the public.

Goods which' name and trademark are visibly displayed shall not be permitted in the programme services of the broadcasting organization.

Article 99

Advertising and teleshopping spots shall be inserted into the programme services of the broadcasting organization in a way that will not jeopardise the integrity and value of the programme service, including the copyrights and the other right-holders.

In programme service consisting of separate parts, i.e., programme services of events or performances structured in intervals, advertising and teleshopping spots shall be inserted between the separate parts or intervals only.

The transmission of audiovisual works such as feature and television films (excluding series, light entertainment and documentaries) that last more than 45 minutes, may be interrupted with advertising and teleshopping spots only once at every 45 minutes.

Additional interruption shall be permitted provided the duration of the audiovisual work is at least 20 minutes longer than two or more full periods of 45 minutes each.

When interrupted with advertisements or teleshopping spots, all programmes other than the programme services consisting of separate parts, at least 20 minutes for television, i.e., 10 minutes for radio shall elapse between each subsequent advertising or teleshopping block.

Article 100

Broadcasting advertisements or teleshopping spots shall be prohibited in news and other current affairs programmes, as well as in broadcasts and delayed transmissions of religious services.

Broadcasting advertisements and teleshopping spots in current-affairs programmes, children's programmes, documentary and religious programmes shall be prohibited if the programme lasts less than 30 minutes.

If planned duration is 30 minutes or longer, the provisions of Article 99, Paragraph 5 of this Law shall apply.

Article 101

It shall be prohibited to advertise and teleshop the following:

- narcotics, tobacco and tobacco products;
- medical treatments and drugs available on medical prescription only;
- weapons and companies trading weapons;
- special tariff telephone services of erotic contents in the period from 06:00 to 24:00.

Article 102

Advertising medical treatments and drugs that may be purchased without a prescription shall be clearly distinctive, honest, and truthful, subject to verification and in compliance with the requirements for protection of individuals from damages.

Article 103

Advertising of all kinds of alcoholic beverages shall be subject to the following rules:

- juveniles shall not be used to advertise alcoholic beverages;
- consumption of alcohol shall not be related to improved physical fitness and car driving skills;
- shall not suggest that alcoholic beverages have therapeutic properties or stimulating and sedative effect, nor that they can solve personal problems;
- shall not encourage immoderate consumption of alcoholic beverages nor present abstinence and soberness in a negative light;
- shall not stress the fact that the high level of alcohol contained is a quality factor of a given beverage.
- shall not give the impression that use of alcohol contributes to societal or sexual success.

Article 104

The orderer shall be responsible for the truthfulness and accuracy of the contents and data of the advertisement or teleshopping spot, whereas the Editor -in- Chief of the media house shall be responsible for the compliance with the law.

Article 105

Compulsory language of broadcasting advertisements and teleshopping spots shall be Macedonian language, with Macedonian translation, or in the language of the respective ethnic community.

Article 106

Journalists or presenters of television news shall not participate in advertisements and teleshopping.

Article 107

Sponsored programme services shall clearly identify the sponsor in an appropriate manner at the beginning or at the end of the programme service, i.e., it shall clearly state that the programme service is sponsored.

Sponsored programme services shall not induce sales, purchases or rentals of goods or services supplied by the sponsor.

Article 108

Sponsorships of news and current affairs programme services, including programme services of political or religious nature shall be prohibited.

Sponsorships by organizations which' main activity is production or sales of products that cannot be advertised shall be prohibited.

Article 109

Sponsoring programme services by organizations involved in manufacturing or sales of medicines and medical treatments can promote the name or image of the organization only, but shall not promote specific medicines or medical treatments available on a prescription only.

VIII. TRANSMISSION OF PROGRAMME SERVICES VIA PUBLIC COMMUNICATION NETWORKS

Article 110

Programme services of national and international broadcasting organizations shall be transmitted via public communication networks on the basis of an agreement on regulated copyrights and associated rights previously concluded.

Programme services re-transmitted via public communication network shall be registered by the Broadcasting Council, as a whole consisting of packages.

Any change regarding the registered package/packages of programme services is communicated to the Broadcasting Council.

Article 111

Packages of programme services re-transmitted via public communication network mandatory and free of charge contain the programmes of the public broadcasting service, with the exception of the obligations derived from the collective protection of copyrights and related rights.

Article 112

Packages of programme services which are re-transmitted via a public communication network can contain the programme services of the broadcasting organizations, but only on the territory for which they have obtained license for performing broadcasting activity, on the basis of regulated copyrights.

Article 113

The operator of the public communication network shall not obstruct the free reception of radio and television programme services transmitted via terrestrial transmitters.

Article 114

The operator of the public communication network shall not broadcast its own radio or television programme services, including advertisements and teleshopping.

The operator of the public communication network shall be obligated to establish an internal television channel to transmit only information about its operations and services provided through its network.

The public communication network operator shall be obligated to record without interruptions the full output of the internal television channel referred to in Paragraph 2 of this Article, and to keep the recorded material at least 30 days after transmission.

Article 115

The operator of a public communication network has the duty to ensure that the programme services originating in countries which have not ratified the Convention on Transfrontier Television are harmonized with chapter VII and Articles 70 and 71 of this law.

IX. PUBLIC BROADCASTING SERVICE (MRT)

General Provisions

Article 116

The functions of a public broadcasting service in the Republic of Macedonia shall be performed by the Macedonian Radio Television.

The Macedonian Radio Television is a public broadcasting company with a seat in Skopje.

Macedonian Radio Television can establish regional production centres.

The abbreviated name of Macedonian Radio Television shall be MRT.

The assets of MRT shall belong to the Republic of Macedonia.

MRT shall be funded from the broadcasting fee, as well as from advertisements, sponsorships, donations, sales of programme items and services and from funds secured from the budget of the Republic of Macedonia for the current year.

Article 117

On the territory of the Republic of Macedonia, MRT shall broadcast one television programme service on Macedonian language and one television programme service in a language other than Macedonian, spoken by at least 20% of the citizens from the non-majority ethnic communities.

On the territory of the Republic of Macedonia, MRT shall broadcast one radio programme service on Macedonian language and one radio programme service in a language other than Macedonian, spoken by at least 20% of the citizens from the non-majority ethnic communities.

MRT shall broadcast special radio programmes intended for the neighbouring countries and Europe.

MRT shall broadcast special radio programme services to inform expatriates and citizens of the Republic of Macedonia living in the neighbouring countries, Europe and other continents.

MRT shall broadcast one radio and one television programme service via satellite intended for expatriates and citizens of the Republic of Macedonia living in Europe and other continents.

(1) MRT can provide additional or complementary programme services on the basis of a Decision of the Council of MRT, upon previous consent by the Steering Board of the MRT and the Broadcasting Council, provided the programme services are not financed through the broadcasting fee.

The programming services listed in paragraphs 1-4 of this Article financed from the broadcasting fee shall decide on the programming schedule and its implementation independently, in

accordance with the Annual Financial Plan of MRT adopted under the auspices of the Adopted Programming Policy, and the provisions of this Law.

Article 118

The programme services of MRT referred to in Paragraph 1, 2, 3 and 4 of Article 117 shall be transmitted via the main networks of PE "Makedonska radiodifuzija", defined by the Law on PE "Makedonska radiodifuzija".

The programme service referred to in Paragraph 5 of Article 117 shall be transmitted by PE Makedonska radiodifuzija or by another communication operator on the basis of an agreement previously concluded with MRT and upon the performance of a procedure that is in compliance with legal regulations.

The additional and complementary radio and television programme service referred to in Paragraph 6 of Article 117 shall be transmitted via the main networks of PE Makedonska Radiodifuzija or by another communication operator on the basis of an agreement previously concluded with MRT and upon the performance of a procedure that is in compliance with legal regulations.

Article 119

The costs of transmission of broadcasting programme services of MRT via the networks of PE "Makedonska radiodifuzija" shall be covered from the broadcasting fee up to the amount determined in Article 147 of this Law. The production costs of programme services referred to in Paragraph 1 and 2 of Article 117 shall be secured through the funds of broadcasting fee.

The production costs of the programme services referred to in Paragraph 3 and 4 of Article 117 shall be secured from the Budget of the Republic of Macedonia.

The costs of production and transmission of programme services referred to in Paragraph 5 of Article 117 shall be secured through the budget of the Republic of Macedonia.

The costs of production and transmission of programme services referred to in Paragraph 6 of Article 117 shall be secured through donations, from the Budget of the Republic of Macedonia and from other sources.

Programme principles and obligations

Article 120

MRT shall be obliged to create and broadcast programme services of public interest that reflect the social and cultural pluralism in the State, which consist of current affairs, cultural, educational, scientific and entertainment contents.

Article 121

For the purpose of fulfilling the public interest, MRT shall be obligated to:

- ensure protection from any kind of influence from government, political organisations, or centres of economic power in the programme services produced and broadcasted;
- develop and plan programme schedule in the interest of the entire public and to produce and broadcast programme services about all segments of society without discrimination, taking therein care of the specific social groups;
- ensure that the programme services reflect diverse ideas, foster cultural identities of ethnic communities, respect cultural and religious differences, to encourage the culture of public dialogue, in order to strengthen mutual understanding and tolerance aiming towards improvement of the relations between the communities in a multi-ethnic and multi-cultural environment;
- foster and develop speech and language standards of both the majority of the population and the non-majority communities;
- foster, encourage and develop all forms of national audiovisual works that contribute to the development of Macedonian culture and international affirmation of Macedonian cultural identity;
- promote the respect of fundamental human rights and freedoms, democratic values and institutions, respect privacy, dignity, reputation and honour of the person;
- in the course of the election campaign, to provide free of charge and balanced time for broadcasting programmes of political parties, coalitions, and candidates submitting lists of candidates for parliamentary, local, and presidential elections, as stipulated by the Guidelines on Media Presentation of Political Parties, Coalitions, Independent Candidates and their manifestos;
- provide information on regional and local particularities and events in the Republic of Macedonia;
- provide the necessary conditions for use and development of modern technical and technological standards in the production and transmission of programme services, and to draft a plan for transition, within a specified period of time, to digital technology, in compliance with the determined strategy for development of broadcasting in Macedonia;
- ensure record-keeping and archiving of radio and television recordings and other material and documents from the work of MRT as part of the audiovisual treasure for/about Macedonia.

Article 122

MRT shall be obliged in the course of producing and broadcasting news and current affairs programme services to adhere to professional principles and to provide equal access to diverse interests in society, to advocate freedom of speech and pluralism in expressing public opinion, and to prevent any kind of racial, religious, national, ethnic and other kind of intolerance.

Article 123

For the purpose of securing the principles of independence and balance, MRT shall adopt an act that will regulate the code of conduct and professional standards in the creation of programme services in MRT.

Article 124

MRT shall be obligated to provide at least 50% national production out of the total annual programming, for each programme service.

MRT shall be obligated to provide at least 30% in-house production of daily broadcasting, i.e., 60% in-house production in the period between 18:00-22:00 hours, for each programme service. MRT shall be obligated to provide at least 30% in-house production of radio programming services daily, i.e., 60% in-house production in the period between 7:00 and 15:00 hours, for each programme service.

Article 125

MRT shall be obligated to commission at least 10% of the total television programme broadcasted from independent producers, i.e., to allocate at least 10% of the annual funds for television production for commissioning programme services from independent producers in the Republic of Macedonia.

The programme services referred to in the previous Paragraph shall be provided by means of a public open competition, administered in a manner and procedure determined by the Statute of MRT.

MRT shall be obligated to reserve at least 30% of the total international television programme per annum for broadcasts of European audiovisual works.

The broadcasting time dedicated to news and current affairs, sport events, games, advertising and teletext services shall not be considered in the total broadcasting time per annum as referred to in Paragraph 1 of this Article.

BODIES OF MRT

Article 126

Bodies of MRT shall be:

- Council of MRT
- Steering Board of MRT
- Executive Director of MRT

Article 127

- (1) The Council of MRT shall represent and care for the public interests in terms of radio and television programme services and the operation of MRT.
- (2) The Council of MRT shall consist of 51 members.
- (3) The members of the Council of MRT shall be elected by the Assembly of the Republic of Macedonia by a majority vote out of the total number of members of parliament, upon a nomination by the following authorized nominators:
 - the Macedonian Orthodox Church nominates a candidate for 1 member of the Council of the MRT;
 - the Islamic Religious Community nominates a candidate for 1 member of the Council of the MRT;
 - the Catholic Church nominates a candidate for 1 member of the Council of the MRT;
 - the Evangelical-Methodist Church nominates a candidate for 1 member of the Council of the MRT;
 - the Jewish Community nominates a candidate for 1 member of the Council of the MRT;
 - the University "Cyril and Methodius" nominates a candidate for 1 member of the Council of the MRT;
 - the University "St. Clement of Ohrid" nominates a candidate for 1 member of the Council of the MRT;
 - the Tetovo University nominates a candidate for 1 member of the Council of the MRT;
 - the South Eastern Europe University nominates a candidate for 1 member of the Council of the MRT;
 - the Alliance of Organizations of Women nominates candidates for 2 members of the Council of the MRT;
 - the Alliance of Associations of Old-Age Pensioners of the Republic of Macedonia nominates candidates for 2 members of the Council of the MRT;
 - the Association of Units of Local Self-Government (ZELS) nominates candidates for 4 members of the Council of the MRT;
 - the employees in the MRT nominate candidates for 2 members of the Council of the MRT;
 - the Alliance of Sports Federations nominates candidates for 2 members of the Council of the MRT;
 - the Alliance of Trade Unions of the Republic of Macedonia nominates candidates for 2 members of the Council of the MRT;
 - the majority organization for consumers protection nominates a candidate for 1 member of the Council of the MRT;
 - the majority association of journalists nominates candidates for 2 members of the Council of the MRT;
 - the Association of the Blind of the Republic of Macedonia nominates a candidate for 1 member of the Council of the MRT;
 - the Association of the deaf and persons with hearing impediment of the Republic of Macedonia nominates a candidate for 1 member of the Council of the MRT;

- the Association of the Disabled of the Republic of Macedonia nominates a candidate for 1 member of the Council of the MRT
- the Association of Composers of the Republic of Macedonia nominates a candidate for 1 member of the Council of the MRT
- the Elections and Appointments Committee within the Assembly of the Republic of Macedonia nominates candidates for 21 members of the Council of the MRT;

The candidates for members of the Council of MRT must be nationals of the Republic of Macedonia, which will represent the diverse groups in the society (youth, old-age pensioners, trade unions, universities, ethnic communities, religious communities, associations of citizens, etc.)

When establishing the list of candidates for members of the Council of MRT, the Assembly of the Republic of Macedonia ensures equitable representation of the members of the non-majority ethnic communities which live in the Republic of Macedonia, pluralism of ideologies and gender representation.

Members of the Council of MRT are elected for 5 years with the right to re-election.

The Assembly of the Republic of Macedonia, at least 60 days before the expiry of the terms of office of the Council of MRT sends a public invitation to the authorized nominators referred to in paragraph 3 of this article, to submit nominations of candidates for members of the Council of MRT.

The authorized nominators have the duty to submit the nominations to the Assembly of the Republic of Macedonia within 30 days from the date of public invitation.

On the basis of the submitted nominations by the authorized nominators, the Elections and Appointments Committee within 15 days composes a proposed list of candidates for members in the Council of MRT.

The Assembly of the Republic of Macedonia, not later than 15 days before the expiry of terms of office of the Council of MRT, shall appoint the new members of the Council of MRT.

Article 128

The following persons cannot be members of the Council of MRT:

- Member of the Parliament, Government officials, appointed office-holders, managing directors or members of Executive Boards of public enterprises;
- persons performing duties in political party bodies on national or on municipal level;
- persons who, as share-holders, members of management bodies or employees or outsourced personal on any basis whatsoever, have any kind of vested interest in other broadcasting organizations or companies involved in the same activities as MRT;

Article 129

The term of office of a member of the Council of MRT may be terminated before the date of expiry in the following cases:

- If the reasons preventing the election of a person as a member of the Council of MRT, as stipulated by this Law, have occurred;
- If the Board member has been absent from the sessions of the Council of MRT for more than three months.
- If a resignation has been submitted by a member.
- If the person has been sentenced to imprisonment longer than 6 months by a final court decision, or if the measure "prohibition to perform profession, activity or duty" has been ordered against that person.

The termination of the terms of office is established by the Assembly of the Republic of Macedonia, upon a proposal of the Council of MRT.

In a case when the term of office of a member of the Council of MRT is terminated before the expiry of the period for which she/he was appointed, the Assembly of the Republic of Macedonia shall appoint a new member of the Council of MRT for the remaining portion of the terms of office, upon a nomination of the respective authorized nominator.

Article 130

The work of the Council of MRT shall be public.

The Council of MRT shall elect and dismiss the President of the Council of MRT by a majority vote out of the total number of members.

On matters listed in Article 133, paragraph 1, lines 3,4,6 and 9, the Council of MRT will decide with a majority of votes of the total members of the Council of MRT, and with the majority of votes of the Council members from the not-majority communities in the Republic of Macedonia.

The Council of MRT shall work, i.e., make decision on sessions that will take place at least twice per year.

The manner of operation and decision making of the Council of MRT shall be determined by the Rules of Procedure.

Article 131

The members of the Steering Board of MRT, Executive Director of MRT as well as other senior officials in MRT shall participate in the work of the Council of MRT upon an invitation by the Council of MRT without the right to participate in the decision making.

The persons referred to in Paragraph 1 of this Article shall be obligated, upon request of the Council of MRT, to provide information, clarification and expert opinion concerning the issues on the Agenda.

Article 132

The members of the Council of MRT shall not receive compensation for their work. Members of the Council of MRT who live outside Skopje shall be entitled to receive per diem and have their travel costs covered when they participate on the sessions of the Council of MRT.

Article 133

The council of MRT shall have the following competencies:

- to make sure that the public interest is safeguarded in the programme services of MRT on the basis of the principles of editorial independence and autonomy;
- to determine the programme service policy of MRT and monitor the implementation of programme principles, and in case of violations, to warn the Executive Director and the Management Board of MRT, i.e., to request from him/her to terminate the broadcasting of programme services violating legal regulations;
- to elect the members of the Management Board of the MRT;
- to adopt the Statute;
- to adopt the Rules of Procedure for its operation;
- to adopt the annual Financial Plan of MRT and to submit it to the Assembly of the Republic of Macedonia for an approval;
- to adopt the annual balance sheet;
- to adopt the report on results of the operation of MRT;
- to adopt self-regulatory acts;
- To adopt the program of development of MRT and approve the investments in the development of MRT;
- to undertake other activities, as defined by the Law and the Statute of MRT.

For the purpose of securing editorial and journalistic independence and autonomy, the Council of MRT shall not check individual programme items and other parts of programme services prior to broadcast, i.e., the Council shall not make decisions and take positions concerning their broadcasting.

Article 134

MRT shall be managed by the Management Board which consists of 7 members.

The members of the Management Board of MRT shall be elected by the Council of MRT with majority vote of the total number of votes on the basis of a previously implemented open competition procedure

The conditions and the procedure for election are established in the Statute of MRT.

The Members of the Management Board are elected for a period of five years, with the right to re-election.

The Management Board elects and dismisses a President from within the ranks of its members.

The Management Board shall operate and make decisions on sessions that take place at least once a month.

The Executive Director of MRT as well as other senior officials in MRT shall participate in the work of the Management Board of MRT without the right to make decisions, when invited by the Management Board of MRT.

Article 135

The members of the Management Board shall receive monthly remuneration up to two average salaries in the Republic of Macedonia for their work.

Article 136

The following persons cannot be members of the Management Board of MRT:

- Members of Parliament, Government officials, senior officials in public administration or local self-government units, managing directors or members of Executive Boards of public enterprises;
- persons performing duties in political party bodies;
- persons who as share-holders, members of management bodies or employees have any kind of vested interest in other broadcasting organizations, news agencies, advertising and promotion companies, market research agencies and public opinion survey agencies, companies involved in investigation and security, companies for film distribution, film production companies, or telecommunication services companies;
- employees in MRT.

Article 137

The term of office of a member of the Management Board of MRT may be terminated before the date of expiry in the following cases:

- If the reasons preventing the election of a person as a member of the Management Board of MRT, as stipulated in Article 136 this Law, have occurred;
- If the Board member has been absent from the sessions of the Management Board more than three months.
- If a resignation has been submitted by a member.
- If the person has been sentenced to prison for longer than 6 months by a final court decision, and if the measure "prohibition to perform a profession, activity or duty" has been ordered against that person.

Termination of the terms of office is established by the Council of MRT, upon the proposal by the Management Board of MRT.

Article 138

Competencies of the Management Board are the following:

- to run the business policy of MRT
- to monitor success in the work of the company;
- to decide on issues related to property management;
- to decide on investments for the development of the company;
- to propose the MRT Development Programme;
- to approve the Operational Plan of MRT;
- to propose the annual financial plan;
- to elect and appoint the Executive Director of MRT;
- proposes the Statute of MRT and amendments thereto;
- to draft and propose the annual balance sheet;
- at least once per year to submit to the Assembly of the Republic of Macedonia a report of the operation of MRT;
- to adopt general acts, except for those adopted by the Council of MRT;
- to adopt its Rules of Procedure;
- to undertake other activities as defined by the Law and the Statute of MRT.

Article 139

The Statute of MRT, the Rules of Procedure of the Council of MRT and the Rules of Procedure of the Management Board of MRT are published in the Official Gazette of the Republic of Macedonia and on the web-site of MRT.

The Operational plan of MRT, the Financial Plan and the Report on Operation of MRT are published on the web-site of MRT and in at least 2 daily newspapers.

The decisions of the Council of MRT are published on the web-site of MRT.

Article 140

The work and the operations of MRT shall be managed by the Executive Director.

The Executive Director shall be elected by the Management Board of MRT with two-thirds majority vote of the total number of members, on the basis of a previously administered open competition procedure, and upon a submitted Programme.

The Executive Director shall be elected for a 4-year term with the rights to be re-elected. The election requirements and procedures shall be regulated by the Statute of MRT.

Article 141

The Executive Director shall:

- manage MRT;
- represent and present MRT in accordance with the Statute of MRT;
- implement the policy according to the Rules of Procedure
- organise and manage the process of operation;
- ensure legality of operations;
- propose acts and decisions adopted by the Council and the Management Board;
- enforce the decisions of the Council of MRT and the Management Board;
- appoint and dismiss managerial staff in accordance with the Statute;
- undertake other activities determined by the Statute and other acts of the MRT, in compliance with the Law.

Article 142

The Statute of MRT shall regulate in details the organisational structure, management and governance of the MRT, acts and decision-making procedures, as well as other issues of importance for the operation of MRT.

X. PUBLIC OPERATOR FOR TRANSMISSION OF RADIO AND TELEVISION SIGNALS (MRD)

Article 143

The functions of a public operator for transmission of radio and television programme services in the Republic of Macedonia shall be performed by the Public Enterprise "Makedonska radiodifuzija - Skopje".

Article 144

The Law on the establishment of "PE Makedonska radiodifuzija - Skopje" shall determine the activity, manner of organization and operation of the PE "Makedonska radiodifuzija".

XI. FUNDING

Article 145

A broadcasting fee shall be established to cover the costs for production and broadcasting of programme services and for technical and technological development of the Public Broadcasting Service, as well as to maintain, use and develop the public broadcasting network; and to regulate and develop the broadcasting activity in the Republic of Macedonia.

The broadcasting fee shall be a public charge.

From the broadcasting fee funds shall be provided for: PE Macedonian Radio Television, PE Makedonska radiodifuzija, and the Broadcasting Council.

Article 146

The broadcasting fee shall be paid by every user of radio and/or television receiver.

User of radio or television receiver shall be a family household or a legal person in the Republic of Macedonia.

By derogation of Paragraph 1 of this Article, the Government of the Republic of Macedonia, upon a proposal of the Broadcasting Council, shall determine which family households in populated areas that do not receive the television signal of the programme services of MRT; are exempt them from payment of the broadcasting fee.

Article 147

Each household shall pay one broadcasting fee.

Legal persons (with the exception of educational institutions - preschool and primary education – as well as the public health institutions) shall also pay the broadcasting fee.

By derogation of Paragraph 2 of this Article, hotels shall pay one broadcasting fee for five rooms equipped with radio or television receivers, the other catering organizations and the social institutions shall pay one broadcasting fee for ten rooms equipped with radio or television receiver, while all other legal and natural persons (except for broadcasting organizations), shall pay one broadcasting fee per 20 employees whose workplaces are equipped with radio and television receivers.

Article 148

The Register for broadcasting fee-payers shall be kept by the Broadcasting Council.

Article 149

The broadcasting fee shall be payable monthly in the amount of 2,5% of the average net salary per worker, paid in the Republic of Macedonia in the previous quarter, according to the data published by the State Statistical Office.

The users which own a radio receiver only shall pay one-third of the amount determined as broadcasting fee in the previous Paragraph.

Article 150

The broadcasting fee shall be embedded in the electricity bill in the part for capacity charge without specifying it separately.

The company competent for distribution of electricity shall receive the payment of the broadcasting fee.

Article 152

The commercial company competent for the distribution of electricity shall re-direct the funds from the broadcasting fee to an appropriate account within the treasury after charging a 0.5% commission fee.

The rest of the funds in the treasury account shall be allocated in the following manner:

- 72% for MRT for covering all costs for producing and broadcasting programme services;
- 4.5% for MRT for technical and technological development;
- 16% for MRD for maintenance and use of the public broadcasting network;
- 3.5 % for MRD for public broadcasting network development;
- 4 % for the Broadcasting Council for regulation and development of the broadcasting activity in the Republic of Macedonia.

Article 152

Regarding forceful payment, interest and the expiry of statute of limitations for payment of broadcasting fee, the provisions of the Law on Payment of Public Revenues shall be applied, unless regulated otherwise by another law.

Article 153

The beneficiaries of the funds referred to in Article 151 of this Law shall be obligated to use the funds on the basis of an approved and publicly published financial plan.

XII. RIGHT TO REPLY AND CORRECTION

Article 154

Every natural or legal person shall be entitled to demand from the person in charge of the broadcasting organization to broadcast a free-of-charge correction or reply to the incorrect or incomplete information broadcasted that injures the legitimate rights or interests of the person concerned, as well as his/her dignity, honour and reputation.

The demands for broadcast of correction or reply shall be submitted within 15 days following the day of broadcasting of the information concerned.

The demand shall state the information for which correction or reply is requested, including the date and the hour of broadcasting.

The demand for correction or reply shall be submitted in written form and it will contain all necessary data about the person requesting it, including his/her address.

Article 155

The term "correction" shall mean correcting false claims or incorrect allegations in the information broadcasted, as well as specifying the facts and the circumstances with which the person concerned is denying them or for the purpose of denying them he/she significantly supplements the allegations in the broadcasted text.

The term "reply" shall mean text or message of the same nature and same length as the broadcasted information that mentions the name or the title of the reply-demander or is in a different manner in direct relations with him/her. The reply shall essentially deny or significantly supplement the opposed allegations concerning the facts and the data in the information broadcasted.

Article 156

The correction or the reply shall be published without any changes or amendments in the same or appropriate place in the programme service, in the same or similar manner as the information was broadcasted.

The correction or reply shall not be disproportionately larger than the information concerned or the portion of the information concerned.

Broadcasting of a commentary on the published correction or reply shall be prohibited.

Article 157

The responsible person of the broadcasting organization shall be obligated to broadcast the correction or the reply within a period of three days from the day of the demand, no later than in the next edition of the same radio or television programme item, unless:

- **the correction or reply does not refer to the information which the interested person is invoking;**
- **the correction or reply does not contain the data about the allegations in the information;**
- **broadcasting the reply would be in contravention of the Law;**
- **the correction or reply is disproportionately larger than the information it relates to;**
- **the information concerned is a scientific or art review, with the exception of the correction of the false data or the abusive and insulting quotes;**

- **correction or reply has already been demanded in relation to the same content of the information or if a dispute is already taking place at the competent court for failure of broadcasting the correction or reply to the information concerned.**
- **the broadcasting organization has already broadcasted correction of the broadcasted information, upon its own motion;**
- **the request was submitted after the expiration of the deadline.**

Article 158

The broadcasting organization shall be obligated to provide to the interested person, on his/her expense, a recorded copy of the broadcasted information within three days of the date of receiving the written request from the person concerned.

The copy referred to in Paragraph 1 of this Article shall be delivered to the person concerned for personal use only.

Multiplying or publishing the copy without the consent of the broadcasting organization shall be prohibited except if within the a judicial procedure.

Article 159

Should the responsible person in the broadcasting company fail to broadcast the correction or reply in the manner and terms determined by this Law, the interested party shall be entitled to initiate a procedure before the competent court for broadcasting the information within 30 days from the expiry of the term determined in Article 149, Paragraph 2 of this Law.

Article 160

Should the court decide to order the broadcasting organization to broadcast the correction or reply, the broadcasted correction or reply shall state that the information is broadcast upon a court decision and it shall quote the verdict.

XIII. ACCESS TO INFORMATION

Article 161

Governmental bodies, bodies of local self-government units, officers performing public functions, public enterprises, and other natural or legal persons with public authority shall be obligated to provide accurate, complete and timely information on issues from their scope of work for the purposes of media broadcasting.

Article 162

Every broadcasting organization shall be entitled to obtain short reports on all important events and developments, under equal conditions.

A short report shall mean a report that lasts up to 90 seconds, and broadcasted in a current affairs programme service.

The right to a short report shall include the right to audio and/or video recording that could last up to 5 minutes.

The right to a short report can be excluded or restricted if it hurts the feelings of the participants in the event or threatens public security and order.

Article 163

The broadcasting organization shall be entitled to broadcast, in its current affairs slots, excerpts from programme services of other broadcasting organizations referring to the event concerned, whereby the name of the broadcasting organization whose excerpts are used shall be clearly stated.

XIV. PROTECTION OF SOURCES OF INFORMATION

Article 164

This Law shall ensure confidentiality of the sources of information used in the programme services of the broadcasting organizations.

The journalist shall be entitled to refuse to disclose the source of the information, i.e., the data that may disclose the source.

The right referred to in Paragraph 2 of this Article shall also apply to other persons who, due to their professional relationships with the journalist, are informed about the data that may reveal the identity of the source.

XV. SUPERVISION OF THE ENFORCEMENT OF THE LAW

Article 165

The Broadcasting Council shall supervise the enforcement of the provisions of this Law, in terms of compliance with programme principles, programme service requirements and restrictions, as well as fulfilling the conditions of the license.

Article 166

If the Broadcasting Council, in the course of performance of tasks from within its scope of competences, finds a violation of the law and of conditions established in the licence, it will

propose the Broadcasting Council to undertake the following measures against the broadcasting organization of the operator of public communications network:

- **written reprimand;**
- **written reprimand with request for publication;**
- **temporary prohibition for advertising and teleshopping from 3 to 30 days;**
- **temporary revocation of license for a period of between one month up to one year;**
- **permanent revocation of license.**

The Council shall not be obligated to pronounce the measures according to the sequence of the measures listed in Paragraph 1, indents 1, 2, 3 and 4 of this Article.

Article 167

If the Broadcasting Council determines violations of the provisions of this Law in the course of supervision, it shall submit a request for initiating a misdemeanour or criminal procedure.

Article 168

The Decision by which the Broadcasting Council pronounces the measure shall state the violation, as well as the actions that the broadcasting organization or the public communications network operator must undertake to rectify the violations.

In the course of the procedure of meting the measures listed in Article 166, Paragraph 1, indents 4 and 5, the Broadcasting Council shall enable the broadcasting organization or the public communications network operator to explain the committed violation within 5 days from the date of delivery of the notice.

The broadcasting organization can submit an appeal against the designated measure to the Council within 15 days.

The Council shall decide with two-thirds majority vote of the total number of members upon the appeal concerned.

Article 169

The competent telecommunications and urban planning and construction authorities shall supervise the fulfilment of the requirements for operation stipulated in the licenses for use of frequency, construction, maintenance and use of networks, broadcasting capacities and distribution of programme services.

Article 170

The implementation of the provisions of this Law pursuant to the observance of copyrights and associated rights what be supervised by the Ministry of Culture.

XVI. PENAL PROVISIONS

Article 167

The broadcasting organization or any other legal person shall be subject to a fine amounting from 200,000 to 300,000 denars if:

- 1) illegal media concentration has been established in contravention to the provisions of Article 14 and Article 17;
- 2) a clandestine co-owner participates in the ownership structure with monetary or non-monetary share (Article 16);
- 3) it does not inform the Council or does not have the consent of the Council to change the ownership structure (Article 17, Paragraphs 1 and 2);
- 4) the obligations to submit or publish the data specified in Article 20 have not been performed;
- 5) the broadcasting activity is done outside of the territory for which the license has been obtained (Article 57);
- 6) the broadcasting activity is performed without broadcasting radio and/or television programme services (Article 67);
- 7) radio or television programme services are broadcasted in contravention to the conditions determined in the license for performing broadcasting activity (Article 10 and Article 42);
- 8) the radio and/or television programme services broadcasted are contrary to the conditions specified in Article 68;
- 9) the programme services broadcasted aim at violent overthrowing of the constitutional order of the Republic of Macedonia or if they encourage and call upon military aggression or incite to national, racial, or religious hatred and intolerance (Article 69);
- 10) the programme services broadcasted are indecent and pornographic (Article 70, Paragraph 1);
- 11) the programme services transmitted contain pornography contrary to Article 70, Paragraph 2;
- 12) the programme services broadcasted contain excessive violence contrary to the provisions of Article 70, Paragraphs 3 and 4;
- 13) the programme services broadcasted could seriously impair physical, psychological and moral development of juveniles contrary to Articles 68 and 69;
- 14) the radio and/or television programme services broadcasted are contrary to the time specified in Article 72;
- 15) the programme services broadcasted is in-house contrary to the provisions of Article 73 and Article 124, Paragraphs 2 and 3;
- 16) special telephone services are used contrary to the provisions of Article 75;
- 17) broadcasted are lottery and games of chance organized by an entity without the licence from the competent authority for organization of games of chance(Article 76);
- 18) the programme services broadcasted have not regulated the copyrights and the related rights (Article 77);

- 19) an event of significant importance has been transmitted contrary to the provisions of Article 78;
- 20) a connection into a single system for broadcasting joint programme services have been performed contrary to the provisions of Article 79;
- 21) the organizers, in the course of an election campaign, have not been provided with equal conditions to access all forms of media presentation (Article 80);
- 22) the programme services broadcasted do not comply with the regulated conditions on use of language in Articles 82, 83 and 105;
- 23) the programme services broadcasted are subtitled contrary to the provisions of Article 82, Paragraph 3;
- 24) the advertisements and teleshopping broadcasted is contrary to the principles specified in Articles 86, 87, 88, 89, 97 and 98;
- 25) the advertisements broadcasted last longer than what is specified in Article 91, Paragraph 1 and Article 93;
- 26) the teleshopping windows broadcasted are contrary to the provisions of Article 94;
- 27) the programme services broadcasted are interrupted with advertisements and teleshopping spots in a manner that is contrary to the conditions specified in Article 91, Paragraph 2, Article 99 and Article 100;
- 28) advertising and teleshopping is done contrary to Article 92;
- 29) the paid political programme broadcasted in the course of an election campaign lasts longer than what is specified in the Decision of the Broadcasting Council (Article 95);
- 30) the advertisements broadcasted are contrary to the rules adopted by the Broadcasting Council (Article 97, Paragraph 4);
- 31) the advertisements and teleshopping broadcasted refer to products or services which' advertising or teleshopping is prohibited (Article 101);
- 32) the advertisements broadcasted are for medicines and medical treatments that can be obtained without prescriptions, contrary to the conditions specified in Article 102;
- 33) the advertisements broadcasted are for alcoholic beverages, contrary to the rules specified in Article 103;
- 34) the programme services broadcasted have not been registered with the Broadcasting Council, contrary to the provisions of Article 110;
- 35) the programme services of the public broadcasting service are not broadcasted (Article 111);
- 36) the public communications network operator has not been provided with an opportunity to broadcast programme services (Article 111, Paragraph 2);
- 37) the programme services of the broadcasting organizations transmitted via the communication network do not have a license for the territory covered by the operator (Article 112);
- 38) in-house radio or television programme services, including advertisements and teleshopping are broadcasted via its own communications network (Article 114, Paragraph 1);
- 39) additional programme services are broadcasted, contrary to the provisions of Article 114, Paragraph 6;

- 40) at least 50% of national production of the total annual programming for each programme service has not been provided (Article 124, Paragraph 1);
- 41) does not commission or provide, in the total broadcasted television programme throughout the year, at least 10% programme content from independent producers (article 125 paragraph 1)

The responsible person of the broadcasting organization or other natural or legal person shall be sanctioned for the violations referred to in Paragraph 1 of this Article to a fine from 20,000 to 30,000 denars.

The protection measure "prohibition of undertaking broadcasting activity" or "prohibition of broadcasting programme services via the public communications network" from 3 months up to 1 year can be pronounced for the violations referred to Paragraph 1, indents 1, 5, 7, 8, 10, 11, 12 and 13.

Article 172

The broadcasting organization or another legal person shall be subject to a fine from 100,000 to 200,000 denars if:

- 1) the presence of European audiovisual works has not been provided for as stipulated in Article 74 and Article 125, Paragraph 3;
- 2) the name, trademark or abbreviated identification signs (aviso, logo etc.) are not displayed in a manner regulated in Article 81;
- 3) if it does not appoint an Editor-in-Chief and if it does not in accordance with the provisions of Article 84;
- 4) records of the programme services are not kept daily and if the recordings of the output signal are not kept until the end of the specified period (Article 85);
- 5) the free-of-charge advertisements are not marked separately as stipulated in Article 96;
- 6) allows participation of news presenters or journalists in advertising or teleshopping (Article 106);
- 7) sponsored programme services are broadcasted in a manner contrary to the conditions specified in Articles 107, 108 and 109;
- 8) an internal channel of its own communications network has not been established (Article 114, Paragraph 2);
- 9) the output signal of the internal television channel is not recorded and the recordings are not kept (Article 114, Paragraph 3);
- 10) the broadcasting of a correction or reply has been denied and/or the correction or reply is broadcasted in a manner contrary to the provisions of Articles 154, 155 156, 157, 158, 159 and 160.

The responsible person of the broadcasting organization or another natural or legal person shall be sanctioned, as well, for the violations referred to in Paragraph 1 of this Article with a fine from 10,000 to 20,000 denars.

XVII. TRANSITIONAL AND FINAL PROVISIONS

Article 173

The new members of the Council shall be elected within a period of eight months after this Law goes into effect in compliance with the provisions of this Law.

Article 174

The public enterprise "Macedonian Radio Television", established on the basis of the Law on the Establishment of the public enterprise Macedonian Radio Television (Official Gazette of the Republic of Macedonia No.: 6/98, 98/2000), shall continue to operate as a public broadcasting service "Macedonian Radio Television".

Article 175

The new members of the Council of MRT shall be elected within a period of eight months after this Law goes into effect in compliance with the provisions of this Law.

The Council of MRT shall adopt the Statute of MRT and elect the Management Board within 60 to 90 days of its establishment.

The Management Board shall announce a public competition for the selection of the Executive Director of MRT within 30 days from the date of its establishment.

Article 176

The Management Board of MRT, the Board for Control of Material and Financial Operation of MRT, the General Director of MRT, the Deputy General Director of MRT, the Director and Chief Editor of Macedonian Radio, the Director and Chief Editor of Macedonian Television as well as the Programme Councils of MRT shall continue to operate until the new bodies of MRT have been elected in accordance with the provisions of this Law.

Article 177

The function of keeping a register of payers of broadcasting fee to MRT shall be taken over by the Broadcasting Council, within 60 days from the date this Law enters into force.

The public broadcasting company Macedonian Radio Television continues to maintain the register of payers of broadcasting fee until it is taken over by the Broadcasting Council.

Article 178

The commercial broadcasting organizations that have received concessions to practice broadcasting activities in accordance with the provisions of the current Law on Broadcasting Activity (Official Gazette of the Republic of Macedonia No.: 20/97 and 70/03), shall align their operation with the provisions of this Law within 6 (nine) months from the date this Law enters into force.

Article 179

The Broadcasting Council, within 6 months from the date this Law enters into force, has the duty to examine the situation and to perform an analysis of the existing public enterprises which perform broadcasting activity - radio, on the local level, on the basis of which it will make a decision establishing which from among them will receive the status of regional centres of PE Macedonian Radiotelevision, and for the remaining ones it will propose solutions for their transformation, as pursuant to the provisions of this law.

When making the decision referred to in paragraph 1 of this Article, the Broadcasting Council shall take into account the development plans of the PE Macedonian Radiotelevision and the PE Makedonska Radiodifuzija.

The decision referred to in paragraph 1 of this Article shall also contain:

- **the technical means for transmission;**
- **the service zone and location of the technical means;**
- **identification mark;**
- **programme service conditions;**
- **validity of the licence;**
- **amount of duties and mode for payment;**

The public enterprises performing activity on the local level have the duty, within 6 months from the date of adoption of the decision referred to in paragraph 1 of this article, to perform the proposed transformation.

The public enterprises performing activity on the local level, transformed into a commercial broadcasting company shall be inscribed in the court register on the basis of the decision referred to in paragraph 1 of this Article, and upon the consents received from the competent bodies in the area of electronic communications and in the area of urban planning and construction. The Broadcasting Council shall award them a Licence to perform broadcasting activity.

The public enterprises performing activity on the local level which fail to act upon the decision of the Broadcasting Council referred to in paragraph 1 of this Article, are deleted from the Court Register, and their assets and obligations are taken over by the Republic of Macedonia.

Until the finalization of the transformation procedure, the existing public enterprises which perform the activity on the local level shall be financed from the broadcasting fee in the amount of 5% of the total amount of collected funds, of which subtracted are 0.5% for commission for the company which performs the collection.

Article 180

Until the adoption of the strategy and until the manner and conditions for awarding a license for production and/or broadcasting programme services via digital terrestrial transmitters are prescribed, only the public enterprise "Makedonska Radiodifuzija" shall be entitled to use frequencies for digital terrestrial transmitter and only for experimental purposes.

The Broadcasting Council shall give its consent to the experimental works and programme contents broadcasted.

The public enterprise "Makedonska Radiodifuzija" shall be obligated to make available to the public, in the most appropriate form, the technical knowledge gained from the experimental works of the digital multiplexes.

Article 181

The Strategy for development of the broadcasting activity in the Republic of Macedonia shall be adopted within 12 months from the date this Law enters into force.

Article 182

The day this Law goes into effect, the Law on Broadcasting Activity (Official Gazette of the Republic of Macedonia No.: 20/97) and the Law on Establishment of the Public Enterprise "Macedonian Radio Television" (Official Gazette of the Republic of Macedonia No.: 6/98 and Official Gazette No.: 98/2000) shall cease to be valid.

Article 183

The provisions of the Law on Public Enterprises (Official Gazette of the Republic of Macedonia No: 38/96) shall not apply to the public enterprise "Macedonian Radio Television".