

**Act CLXXXV of 2010  
on Media Services and Mass Communication\***

The Parliament, with a view to promote community and individual interests and social integrity, to ensure proper operation of the democratic order and to strengthen national and cultural identity, with due respect to the Fundamental Law, the constitutional principles, and the norms of international law and of the European Union, by taking into consideration the circumstances created by the developments in technology, by preserving the freedom of expression, speech and the press, and considering the key importance of media services in cultural, social and economic terms, and the importance of ensuring competition on the media market, hereby adopts this Act on Media Services and Mass Media, as follows:

***PART ONE  
GENERAL PROVISIONS***

**Chapter I  
SCOPE OF THE ACT**

**Article 1** (1) The Act shall apply to media services and press products provided and published by media content providers established in Hungary.

(2) For the purposes of this Act, a media content provider shall be deemed as established in Hungary if it meets the following criteria:

a) the analogue distribution of the media service provided by it is performed through the use of a frequency owned by Hungary, or the press product is primarily accessible through the electronic communications identifier designated for the users of Hungary;

b) the seat of its central administration is located on the territory of Hungary and the editorial decisions related to the media service or the press product are made on the territory of Hungary;

c) if either the seat of its central administration or the place where editorial decisions are made is located on the territory of Hungary, however the significant part of the media content provider's staff being employed on the territory of Hungary;

d) a significant part of the media content provider's staff is employed both in and outside the territory of Hungary but the seat of its central administration is located on the territory of Hungary;

e) either the seat of its central administration or the place where editorial decisions are made is located on the territory of Hungary, however its activity was commenced on the territory of Hungary and it maintains actual and continuous contact with the players of the Hungarian economy; or

f) it distributes its media service by exercising its temporary digital broadcasting right as per Point *b*) of Article 43/A (1) of Act LXXIV of 2007 on the Rules of Broadcasting and Digital Switchover (hereinafter referred to as: Digital Switchover Act).

(3) The scope of the Act shall also cover media services provided by media content providers which do not qualify as a media content provider established on the territory of Hungary based on Paragraphs (1)-(2) and which do not qualify as a media content provider established in another Member State either, provided that such media content providers use a satellite uplink station located on the territory of Hungary or use such transmission capacity of the satellite that is owned by Hungary.

(4) If, on the basis of Paragraphs (1)-(3), it cannot be determined whether a particular media content

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\* Consolidated version, as effective from 1 July 2015.

provider falls under the jurisdiction of Hungary or some other Member State, the media content provider shall fall under the jurisdiction of the state where it is established, according to the provisions of Articles 49-55 of the Treaty on the Functioning of the European Union.

(5) This Act shall also apply to media services and press products which, although outside the scope of Paragraphs (1)-(4), are targeted at or distributed or published on the territory of Hungary, subject to the conditions set forth in Articles 176-180.

(6) The Act shall also apply to the media services and press products targeted at or distributed or published on the territory of Hungary by such media content providers that are not deemed as established in any Member State, provided that their media services or press products are not subject to the jurisdiction of any one of the Member States either.

(7) The Act shall apply to media content providers rendering media services or publishing press products that fall under the scope of the Act pursuant to Paragraphs (1)-(6).

**Article 2** (1) In certain instances stipulated herein, the scope of the Act shall also cover ancillary media services, and their providers, that are provided within the territory of Hungary or that are related to media service distribution provided within the territory of Hungary.

(2) In certain instances stipulated herein, the scope of the Act shall cover

a) media service distribution, carried out wholly or partially with electronic communications equipment installed within the territory of Hungary or transmitting to the territory of Hungary;

b) the technical activities of the media service provider in connection with the media service distribution stipulated in Point (a);

c) the activity of the ancillary media service provider in connection with the media service distribution stipulated in Point (a);

d) publications.

(3) In certain instances stipulated herein, the scope of the Act shall cover natural or legal persons or other organizations without legal personality and the executive officers of such persons or entities carrying out the activities or providing the services stipulated under Paragraph (2) or carrying out any activity or providing any service related thereto.

(4) In certain instances stipulated herein, the scope of the Act shall also cover the intermediary service provider transmitting the media service or the press product and the services of such provider.

(5) In certain instances stipulated herein, the scope of this Act shall also cover the viewers, the listeners or the readers of the media services, ancillary media services and press products and the user, consumer and subscriber of the media service distribution falling within the scope of the Act.

## Chapter II FUNDAMENTAL PRINCIPLES

**Article 3** Media services may be provided and press products may be published freely, information and opinions may be transmitted freely through the mass media, and Hungarian and foreign media services intended for public reception may be accessed freely in Hungary. The content of the media service and the press product may be determined freely, nevertheless the media service provider and the publisher of press product shall be liable for compliance with the provisions of this Act.

**Article 4** The diversity of media services is a particularly important value. The protection of diversity shall also include the avoidance of the formation of ownership monopolies and any unjustified restriction of competition on the market. The provisions of this Act shall be interpreted in consideration of the protection of diversity.

**Article 5** The right to information and the right to be informed of those living within the territory of Hungary and of the members of the Hungarian nation and, in connection with this, the development and strengthening of publicity in the democratic society are fundamental constitutional interests. The provisions of this Act shall be interpreted with a view to the interests of democratic public opinion.

**Article 6** Existence of public media services represents an essential condition of the appropriate functioning of a democratic social order. The interests of public media service shall be considered with particular emphasis in the course of the application of this Act.

**Article 7** (1) In the course of carrying out the tasks falling within the scope of this Act, the media service providers, publishers of press products, ancillary media service providers and media service distributors shall act as required by good faith and fairness, and in accordance with the provisions of this Act shall be obliged to mutually cooperate with one another and the viewers, the listeners, the readers, the users and the subscribers.

(2) The media service distributors, media service providers, and ancillary media service providers shall be obliged to operate and provide the electronic communications networks, electronic communications services, digital programme flows and ancillary media services between each other in accordance with a set of coordinated technical criteria, so that these form a unified system required to establish the necessary connection and to provide the service either directly or with the incorporation of proper interfaces, network parts, elements, devices or services.

**Article 8** The professional self-regulatory bodies comprising the media service providers, publishers of press products, intermediary service providers and media service distributors, as well as the various self- and co-regulatory procedures applied play an important role in the field of media regulation and in the application of and compliance with the provisions of this Act. Such bodies and procedures shall be respected in the application of this Act.

## ***PART TWO*** ***GENERAL RULES OF MEDIA SERVICES AND PRESS PRODUCTS***

### Chapter I REQUIREMENTS REGARDING THE CONTENT OF MEDIA SERVICES

#### ***Protection of Children and Minors***

**Article 9** (1) A media service provider providing linear media services shall assign a rating to each and every programme it intends to broadcast in accordance with the categories under Paragraphs (2)-(7) prior to broadcasting, with the exception of news programmes, political programmes, sports programmes, previews and advertisements, political advertisements, teleshopping, public service advertisements and public service announcements.

(2) Category I shall include programmes which may be viewed or listened to by persons of any age.

(3) Category II shall include programmes which may trigger fear in persons under the age of six or may not be comprehended or may be misunderstood by such viewer or listener owing to his/her age. These programmes shall be classified as “Not recommended for audiences under the age of six”.

(4) Category III shall include programmes which may trigger fear in persons under the age of twelve or may not be comprehended or may be misunderstood by such viewer or listener owing to his/her age. These programmes shall be classified as “Not recommended for audiences under the age of twelve”.

(5) Category IV shall include programmes which may impair the physical, mental or moral development of persons under the age of sixteen, particularly because they refer to violence or sexuality, or are dominated by conflicts resolved by violence. These programmes shall be classified as “Not recommended for audiences under the age of sixteen”.

(6) Category V shall include programmes which may impair the physical, mental or moral development of minors, particularly because they are dominated by graphic scenes of violence or sexual content. These programmes shall be classified as “Not recommended for audiences under the age of eighteen”.

(7) Category VI shall include programmes which may seriously impair the physical, mental or moral development of minors, particularly because they involve pornography or scenes of extreme and/or unjustified violence.

(8) The Media Council of the National Media and Infocommunications Authority (hereinafter as: the Media Council) shall issue recommendations on the most important conceptual aspects of the enforcement practice applied by it concerning the detailed criteria governing the ratings as per Paragraphs (2)-(7), the signs to be used prior to and in the course of broadcasting the various programmes and the method of communicating the rating, if justified by public interest related to the protection of minors or by the uniform approach to the protection of minors.

(9) Upon request of the media service provider the Media Council shall adopt a regulatory decision on the rating of the programme within fifteen days from having received the programme in question, for an administrative service fee.

(10) It shall not qualify as the violation of Paragraphs (1)-(7) if the media service provider rates a programme into a higher category than it would be required pursuant to Paragraphs (2)-(6).

**Article 10** (1) In linear media services

(a) programmes classified into Category II cannot be aired between programmes intended for persons under the age of six, but may, at any time, be aired using the proper rating;

(b) programmes classified into Category III cannot be aired between programmes intended for persons under the age of twelve, but may, at any time, be aired using the proper rating;

(c) programmes classified into Category IV may be aired between 9.00 p.m. and 5.00 a.m. using the proper rating;

(d) programmes classified into Category V may be aired between 10.00 p.m. and 5.00 a.m. using the proper rating;

(e) programmes classified into Category VI may not be aired;

(f) a preview may not be aired at a time when the programme it introduces or presents is not allowed to be aired or at a time when upon the proper rating of such preview it is not allowed to be aired;

(g) the preview of a programme classified into Category III may not be aired during the interval of or immediately prior or subsequent to a programme intended for persons under the age of twelve;

(h) sports programmes, commercial communications and public service advertisements may not be aired at such times when it is foreseeable that these would not be allowed to be aired, if they were provided with a proper rating based on their content.

(2) In linear media services

(a) a programme may only be aired in compliance with its rating, subject to the exceptions provided by this Act;

(b) the rating of the programme shall be communicated at the time the airing of the programme begins.

(3) In the case of linear radio media services, the rating does not have to be communicated if

(a) the programme falling within Categories II or III is aired between 9.00 p.m. and 5.00 a.m.;

(b) the programme falling within Categories IV or V is aired between 11.00 p.m. and 5.00 a.m.

(4) In linear audiovisual media services, at the time the specific programme is aired, a sign corresponding to the rating of the programme shall also be displayed in the form of a pictogram in one of the corners of the screen so that it is clearly visible throughout the entire course of the programme. The pictogram shall indicate with numbers the age group affected by the given category. In case of programmes falling into Category I it is not necessary to display the sign. In case of a linear radio media service it is not necessary to use permanent signs.

(5) In case of linear audiovisual media services the continuous display in accordance with Paragraph (4) of the sign corresponding to the rating of the programme may be disregarded, provided that

- (a) the programme classified as Category II or III is aired between 9.00 p.m. and 5.00 a.m.;
- (b) the programme classified as Category IV is aired between 10.00 p.m. and 5.00 a.m.; or
- (c) the programme classified as Category V is aired between 11.00 p.m. and 5.00 a.m.

In this case the sign corresponding to the rating of the programme shall be displayed when the programme begins, and at the time the programme is continued following the commercial break.

(6) The stipulations in Points (c)-(f) and (h) of Paragraph (1) and under Paragraphs (2) and (4) shall not be applied if the media service contains the programme in an encrypted form and decryption may only be executed by using a code, which the media service provider or the media service distributor only made accessible to subscribers over the age of eighteen, or which uses another effective technical solution to prevent viewers or listeners under the age of eighteen from accessing the programme. The Media Council shall issue recommendations in respect of effective technical solutions subsequent to holding a public hearing, if necessary.

(7) The rating of each and every programme in accordance with Article 9 shall be displayed in a conspicuous manner in the press product specifying the programme flow of the media service provider, on the website, noninteractive teletext and teletext of the media service provider, provided it has any of these.

**Article 11** (1) The provisions under Article 9 (6)-(7) shall be applied to on-demand media services.

(2) Pursuant to Article 19 (2) of Act CIV of 2010 on the Freedom of the Press and the Fundamental Rules of Media Content (hereinafter referred to as: Press Freedom Act), the media service provider or the media service distributor (distributing the given service) of an on-demand media service shall use an effective technical solution to prevent minors from accessing its programmes classified as Category V or VI programmes.

(3) The Media Council shall issue recommendations in respect of effective technical solutions mentioned in Paragraph (2) subsequent to holding a public hearing, if necessary.

### **Information Activities**

**Article 12** (1) The information activities of media services shall comply with the obligation set forth under Article 13 of the Press Freedom Act.

(2) Subject to the nature of the programmes, the balanced nature of the information provision shall be ensured either within the given programme or within the series of programmes appearing regularly.

(3) Save for the explanation of the news, employees of the media service provider appearing regularly in the programmes providing news service and political information as presenters, newsreaders or correspondents may not add any opinion or evaluative explanation to the political news appearing in the programme aired by any media service provider.

(4) Any opinion or evaluative explanation added to the news provided in a programme shall be made in a form distinguishing it from the news themselves, indicating its nature as such and identifying its author.

**Article 13** *[not in effect]*

### **Warning about Offensive Content**

**Article 14** The viewers or listeners shall be given a forewarning prior to the broadcasting of any image or sound effects in media services that may hurt a person's religious, faith-related or other ideological convictions or which are violent or otherwise disturbing.

### **Managing Crisis Situations through the Media Services**



**Article 15** During a state of distress, state of emergency or state of extreme danger, or in the event of the unforeseen invasion of the territory of Hungary by foreign armed groups, or in connection with operations for the protection of the state's territory by air defence and air forces of the Hungarian Army, the Parliament, the Defence Council, the President of the Republic and the Government, as well as the persons and organizations defined by law may order the media service provider, to the extent necessitated by the existing state of affairs or situation, to publish, free of charge, any public service announcements in connection with the existing state of affairs or situation, in the prescribed form and time, or may prohibit the publication of certain announcements or programmes. The Media Service Support and Asset Management Fund (hereinafter as: Fund) shall be responsible for providing the conditions necessary for publishing. At the time of publication, the person or institution ordering the publication must be clearly identified.

### **Exclusive Broadcasting Rights**

**Article 16** (1) The audiovisual media service provider may not exercise the exclusive broadcasting right so as to deprive a substantial part – more than twenty percent – of the Hungarian audience having access to the audiovisual media services of the possibility to follow the events, live or in a subsequent broadcast, regarded to be events of major importance to society, through an audiovisual media service accessible without the payment of a subscription fee.

(2) In connection with the audiovisual media service providers determined under Paragraph (1), the list of events of major importance to society shall be prepared by the Media Council, subsequent to a public hearing. As for the events included in the list, the Media Council shall also determine whether the given event should be aired by full or partial live coverage or, where necessary for objective reasons in the public interest, full or partial deferred coverage.

(3) When preparing the list as per Paragraph (2) it must be taken into account that the events classified as events of major importance must meet the following criteria

a) the event, besides the usual audience of the given sport or activity, also raises the interest of a broad section of society or it has a generally recognised, distinct cultural importance for the population, in particular as a catalyst of cultural identity, and

b) the Hungarian team or athlete participate in the given event organised as part of a championship or cup having international significance, or the event has traditionally been broadcast on free television (without payment of a subscription fee) and has commanded large television audiences.

(4) The Media Council shall send the draft list defined under Paragraph (2) to the European Commission, with detailed explanation attached, to obtain approval thereto. The list as per Paragraph (2) shall become effective as of the day it is published in the Official Journal of the European Union. The preparation and acceptance of the list as per Paragraph (2) shall not qualify as a regulatory procedure or official matter, as defined under the Act on the General Rules of Administrative Proceedings and Services (hereinafter as: Act on Administrative Proceedings).

(5) The Media Council may amend the list as per Paragraph (2), taking into account the criteria defined under Paragraph (3). The provisions of Paragraph (4) shall be applied respectively regarding the amended list.

(6) Paragraph (1) and Article 18 (1) shall not be applied regarding the exclusive rights lawfully acquired prior to the entry into force of the first list prepared according to Paragraph (2) or the entry into force of its subsequent amendment.

(7)

**Article 17** (1) The exclusive broadcasting right shall not be exercised so as to deprive a substantial part of the audience in a Member State from following those events of major importance for them via an audiovisual media service, which are indicated on the list compiled and published in advance by

the Member State concerned.

(2) Exclusive audiovisual broadcasting rights obtained subsequent to the effective date of the Act promulgating the Protocol on the amendment of the European Convention on Transfrontier Television signed in Strasbourg on 5 May 1989 (hereinafter, for the purposes of this Paragraph and Article 18: “Protocol”), promulgated by Act XLIX of 1998, shall be exercised in conformity with the provisions on the broadcasting of events of major importance for society in the States which are party to the Protocol.

**Article 18** (1) If exercising of the exclusive broadcasting right would deprive at least twenty percent of the Hungarian audience from following the events as per Article 16 (2) via an audiovisual media service, the audiovisual media service provider shall be obliged to make a contract proposal – subject to reasonable terms and conditions and in exchange for consideration appropriate under the prevailing market conditions – to the linear audiovisual media service provider (hereinafter as: contracting authority), who provides services accessible for at least eighty percent of the citizens of Hungary without the payment of a subscription fee, when approached by such service provider, for the broadcasting of the said event live or subsequently. Under such circumstances, the media service provider having obtained exclusive rights may not refer to not being entitled to transfer the exclusive right.

(2) Any media service provider, that acquired exclusive rights for the broadcasting of an event through audiovisual media service which has been designated by any State being a party to the Protocol as being of major importance to society, shall be required to make a contract proposal – subject to reasonable terms and conditions and in exchange for consideration appropriate under the prevailing market conditions – to the foreign linear audiovisual media service provider – who falls within the jurisdiction of that State, complies with the requirements defined by that State, and is accessible without a subscription fee by at least eighty percent of the citizens of that State by taking any and all media service distribution techniques into consideration – when approached by such a service provider concerning the broadcast of the said event.

(3) Any media service provider, that acquired exclusive rights for the broadcasting of an event that has been designated by a Member State as being of major importance to society, shall be required to make a contract proposal – subject to reasonable terms and conditions and in exchange for consideration appropriate under the prevailing market conditions – to the foreign audiovisual media service provider – who falls within the jurisdiction of that Member State and complies with the requirements defined by that Member State – when approached by such a service provider concerning the broadcast of the said event.

(4) The parties concerned shall agree on the detailed terms and conditions of the contracts defined under Paragraphs (1)-(3).

(5) In the cases specified under Paragraphs (1)-(3) the parties shall be subject to an obligation to contract. In the event the parties fail to conclude an agreement or fail to agree on the fees within fifteen days subsequent to the offer having been made, the contracting authority or the media service provider with exclusive broadcasting rights may initiate the legal dispute procedure stipulated in Articles 172-174. Within the framework of such legal dispute procedure, the Media Council shall adopt its decision within fifteen days. The administrative deadline may be extended by fifteen days, if justified.

(6) For the purposes of Articles 16 and 18, the records of the Media Council shall prevail as far as the accessibility of the media services are concerned.

### Short News Reports

**Article 19** (1) Any linear audiovisual media service provider established within the territory of the European Union may have, for the purpose of a short news report, access in a fair, reasonable and

non-discriminatory manner to the broadcast on the event of major importance, which appears on the list defined under Article 16 (2) or designated as such in any Member State and broadcasted under an exclusive broadcasting right by the audiovisual media service provider established in Hungary. The access may take place by obtaining the signal of the media service, by making a record at the location of the event or by receiving the footage recorded on the event.

(2) If an audiovisual media service provider, who is established in the same Member State where the audiovisual media service provider requesting the access is established, obtained exclusive rights in connection with the event of major importance, access may only be requested from this audiovisual media service provider.

(3) In the case specified under Paragraph (1) the parties concerned shall be subject to an obligation to contract. The contract shall be entered into upon reasonable terms and conditions; the consideration for the right of access may not exceed the costs arising directly as a result of providing access. In the event the parties fail to conclude an agreement within fifteen days subsequent to the offer having been made, any of the parties may initiate the legal dispute procedure stipulated in Articles 172-174. Within the framework of such legal dispute procedure, the Media Council shall adopt its decision within fifteen days. The administrative deadline may be extended by fifteen days, if justified.

(4) The audiovisual media service provider, which obtained a right of access, may freely select the parts of the programme it intends to broadcast in the short news report.

(5) The total length of the parts to be broadcasted may not exceed ten percent of the total length of the programme concerned, but fifty seconds at most. The contract may permit the broadcasting of parts with a longer total length.

(6) The audiovisual media service provider having obtained a right of access shall identify the holder of the exclusive broadcasting right with which it entered into an agreement on broadcasting.

(7) The parts of the programme, which may be used on the basis of the agreement, cannot be broadcasted individually but only as part of general news and information programmes. If the linear audiovisual media service provider intends to broadcast the short news report in an on-demand audiovisual media service as well, it may only do so if the programmes containing the short news report are identical in both the linear and in the on-demand audiovisual media services.

## **Programme Quotas**

**Article 20** (1) The media service provider

a) shall allocate over half of its annual total transmission time of linear audiovisual media services to broadcasting European works and over one-third of its transmission time to broadcasting Hungarian works;

b) shall allocate at least ten percent of its annual total transmission time of linear audiovisual media services to broadcasting such European works, and at least eight percent of its transmission time to broadcasting such Hungarian works that were ordered by it from an independent production company, or were purchased from an independent production company within five years of production.

(2) Over one-quarter of the total length of the programmes made available in a given calendar year in the form of on-demand audiovisual media services shall be European works, and at least ten percent shall be Hungarian works.

(3) The public media service provider shall be obliged to allocate its total annual transmission time of linear audiovisual media services in the following way:

(a) over sixty percent of its annual transmission time to broadcasting European works;

(b) over half of its annual transmission time to broadcasting Hungarian works;

(c) over fifteen percent of its annual transmission time to European works which were ordered by it from an independent production company or which were purchased from an independent production



company within five years of production.

(4) The obligation stipulated under Paragraphs (1)-(2) in terms of the broadcasting of Hungarian works shall be applied exclusively for the media services targeted at the territory of Hungary.

**Article 21** (1) In linear radio media services at least thirty-five percent of the total annual transmission time dedicated to broadcasting musical works shall be allocated to broadcasting Hungarian musical works.

(2) In average, annually at least twenty-five percent of the Hungarian musical programmes to be broadcasted in linear radio media services shall consist of musical works released within five years or from sound recordings produced within five years.

(3) Those musical recordings recorded prior to 1990 the sound quality of which was improved by digital means less than five years before their publication, shall be considered for purposes of Paragraph (2) as sound recordings made less than five years ago.

**Article 22** (1) The provisions laid down in Articles 20-21 shall not apply to

(a) media services dedicated exclusively for advertising purposes and the broadcasting of teleshopping;

(b) media services advertising exclusively the media service provider or another media service of the media service provider;

(c) the media service which broadcasts its service exclusively in a language other than the languages of the Member States of the European Union; where programmes are broadcasted in this language or languages in the significant part of the transmission time, the provisions shall not apply to the respective part of transmission time;

(d) the local media service with the exception of community media service;

(e) the media service which is exclusively broadcasted in countries outside of the European Union.

(2) The media service provider may, upon its request addressed to the Media Council, also attain the proportions defined in Articles 20-21 gradually, in a manner stipulated in a public contract concluded with the Media Council. Such an exemption in a public contract may only be granted for a maximum period of three calendar years upon the condition that the media service provider – until it reaches the prescribed proportions – shall gradually increase the proportion of broadcasted Hungarian and European works and works produced by an independent producer in its media service.

(3) A public contract entered into with a media service provider offering radio media services and on-demand media services may, in justified cases, permit a long-term or permanent deviation from the proportions defined in Articles 20-21. A public contract entered into with a media service provider offering linear audiovisual thematic media services may, in justified cases, permit the media service provider to fulfil its obligation under Article 20 (1) (b) and Article 20 (3) (c) by broadcasting works produced over five years earlier.

(4) Save for the case stipulated under Paragraph (3), no general exemption may be granted from compliance with the provisions concerning programme quotas.

(5) The proportion of European works set forth in Article 20 (1) (a) and the proportions set forth in Article 20 (3) (a) and 21 (1), as well as the proportions specified in the public contract concluded according to Paragraphs (2)-(3) of this Article – in relation to Point a) of Article 20 (1), Point a) of Article 20 (3), and Article 21 (1) – must also be ensured during the transmission time of the different media services between 5.00 a.m. and 12.00 p.m.

(6) Media service providers providing more than one media service shall attain the proportions defined in Articles 20-21 as an average of the total transmission time of all of their media services, with the provision that the proportion of Hungarian musical works shall be at least twenty percent of the transmission time for each media service in relation to the performance of the obligation set forth in Article 21 (1). This provision can be applied only for those individual programme quota obligations concerning which the media service provider was not granted an exemption as per Paragraphs (2)-(3) of Article 22, specified under the public contract.

(7) For the purposes of Articles 20-21, transmission time devoted to news programmes, sports programmes, games, advertisements, teleshopping, political advertisements, public service announcements, sponsorship announcements, public service advertisements and the noninteractive teletext shall not be considered in the course of determining the total transmission time.

(8) The media service provider shall provide data monthly to the Media Council for the verification of compliance with the provisions concerning programme quotas. The application for exemption, with justifications attached, regarding the forthcoming calendar year in accordance with Paragraphs (2)-(3) shall be filed to the Media Council by 30 September each year at the latest. In the case of a new media service, the application may be lodged at the same time when the registration procedure is initiated.

### Commercial Communications

**Article 23** The provisions laid down in Article 20 (1)-(7) of the Press Freedom Act shall also be applied to commercial communications broadcasted in media services.

**Article 24** (1) The commercial communication broadcasted in the media service

(a) shall not violate human dignity;

(b) shall not contain and shall not support discrimination on grounds of gender, racial or ethnic origin, nationality, religion or ideological conviction, physical or mental disability, age or sexual orientation;

(c) shall not directly call upon minors to purchase or rent products or to use services;

(d) shall not directly call upon minors to persuade their parents or others to purchase the advertised products or to use the advertised services;

(e) shall not exploit the special trust of minors placed in their parents, teachers or other persons or the inexperience and credulity of minors;

(f) shall not show minors in dangerous situations, if this is not justified;

(g) shall not express religious, conscientious or ideological convictions except for commercial communications broadcasted in thematic media services with religious topics;

(h) shall not violate the dignity of a national symbol or offend religious conviction.

(2) Commercial communications broadcasted in media services pertaining to alcoholic beverages

(a) shall not be aimed specifically at minors;

(b) shall not show minors consuming alcohol;

(c) shall not encourage immoderate consumption of such beverages;

(d) shall not depict immoderate alcohol consumption in a positive light and refraining from alcohol consumption in a negative light;

(e) shall not show exceptional physical performance or the driving of vehicles as a result of the consumption of alcoholic beverages;

(f) shall not create the impression that the consumption of alcoholic beverages contributes to social or sexual success;

(g) shall not claim that the consumption of alcoholic beverages has stimulating, sedative or any other positive health effects or that alcoholic beverages are a means of resolving personal problems;

(h) shall not create the impression that immoderate alcohol consumption may be avoided by consuming beverages with low alcohol content or that high alcohol content is a positive attribute of the beverage.

**Article 25** The person who orders the publication of the commercial communication and the person who has an interest in such publication may not exert editorial influence over the media service, except for the time of publication.

### Sponsoring Media Services and Programmes

**Article 26** (1) Provisions of Article 20 (8)-(10) of the Press Freedom Act shall be applicable to the sponsorship of media services and programmes.

(2) In the case of a sponsored media service or programme the identification of the sponsor – pursuant to Article 20 (8) of the Press Freedom Act – may take place by reference to the name or the trademark of the sponsor or another undertaking designated by it, or by the publication or use of a symbol of the sponsor or another undertaking designated by it, or by reference to its product, activity or service or the publication or use of the distinguishing sign or logo of the aforesaid.

(3) The publication under Paragraph (2) may take place simultaneously with the programme, prior to the programme or subsequent to the end of the programme in a manner not damaging the nature and content of the sponsored programme.

**Article 27** (1) The following entities may not sponsor media services or programmes:

- a) political parties, political movements;
- b) undertakings manufacturing tobacco products;
- c) undertakings organising gambling games without the permission of the state tax authority.

(2) In addition to the provisions of Point (b) of Paragraph (1), undertakings, which – as their core business – manufacture products that may not be advertised pursuant to the provisions of this Act or under any other piece of legislation or which provide services related to such products, may not sponsor media services or programmes by the display or promotion of such products or services.

(3) The prohibition laid down in Article 20 (7) of the Press Freedom Act shall not apply to the sponsorship tied to the publication of the name and trademark of an undertaking in connection with a medicine or a therapeutic procedure, or sponsorship tied to the promotion of medicines, medicinal products or therapeutic procedures, which may be used without a medical prescription. Programmes sponsored by an undertaking engaged in the manufacture or distribution of medicines, medicinal products or the supply of therapeutic procedures may not promote medicines, medicinal products or therapeutic procedures accessible only upon medical prescriptions.

(4) The name, slogan or emblem of a political party or a political movement may not appear in the name or the displayed name of the sponsor.

(5) It shall not qualify as the sponsorship of an audiovisual media service or programme or as a surreptitious commercial communication, if a public event, or the name or logo of the sponsor of the participants of the event, or the name of the product or the service of the sponsor is displayed on the screen in the course of the broadcast from the event – including the interviews made in connection with the event before or after the event or during the interval of the event –, provided that the media service provider has no material interest in such appearance and the manner of appearance does not provide the sponsor with an unjustified emphasis.

(6) If a person or an undertaking sponsoring another person or undertaking, which appears in a programme of the audiovisual media service provider or the name, the symbol or the logo of such sponsoring person or undertaking appears in the programme – with the exception of the case referred to under Paragraph (5) –, the rules concerning the sponsorship of media services and programmes shall be applicable, not including the obligation to identify the sponsor.

**Article 28** (1) The following may not be sponsored in audiovisual media services:

- (a) news programmes and political programmes;
- (b) programmes reporting about the official events of national holidays.

(2) Programmes reporting about the official events of national holidays may not be sponsored in a radio media service.

(3) The restriction defined in Point (a) of Paragraph (1) does not affect the sponsorship of thematic media services broadcasting news and political programmes.

**Article 29** *[not in effect]*

## **Product Placement in Programmes**

**Article 30** (1) With the exceptions provided under Paragraph (2), product placement in media services shall be prohibited.

(2) Product placement in programmes shall be permitted

(a) in cinematographic works intended for showing in movie theatres; cinematographic works or film series intended for showing in media services; sports programmes and entertainment programmes;

(b) in programmes other than those stipulated in Point (a), provided that the manufacturer or distributor of the product concerned, or the provider or intermediary of the service concerned does not provide the media service provider or the producer of the given programme with any financial reward, neither directly nor indirectly, beyond making available the product or service free of charge for product placement purposes.

(3) No product placement shall be used

(a) in news programmes and political programmes;

(b) in programmes intended specifically for minors under the age of fourteen, with the exception of the case specified in Point (b) of Paragraph (2);

(c) in programmes reporting about the official events of national holidays;

(d) in programmes with religious or ecclesiastic content.

(4) Programmes shall not contain product placements of the following products:

(a) tobacco products, cigarettes or other products originating from undertakings, the primary activity of which is the manufacture or sale of cigarettes or other tobacco products;

(b) products that may not be advertised pursuant to this Act or other pieces of legislation;

(c) medicines, medicinal products, or therapeutic procedures, which may only be used upon medical prescription;

(d) gambling services provided without the permission of the state tax authority.

**Article 31** (1) Programmes containing product placements shall comply with the following requirements:

(a) their content – and in the case of linear media services, the programme schedule – may not be influenced so as to affect the responsibility and editorial independence of the media service provider;

(b) they shall not call upon the purchase or rent of a product or the use of a service in a direct manner;

(c) they shall not give unjustified emphasis to the product so displayed, which does not otherwise stem from the content of the programme flow.

(2) Viewers and listeners shall be unequivocally informed on the fact of product placement. At the beginning and at the end of the programme containing the product placement, and when the programme resumes after advertisements, attention shall be drawn to the fact of product placement in an optical or acoustic form.

(3) The obligation stipulated under Paragraph (2) shall not apply to programmes which were not produced or ordered by the media service provider or another media service provider or production company operating under the qualifying holding of its owner.

(4) The Media Council – subsequent to holding a public hearing, if necessary – may publish recommendations concerning the compliance of the product placement and the related warning with the provisions stipulated in this Act.

## **Political Advertisements, Public Service Announcements, Public Service Advertisements**

**Article 32** (1) The person or entity ordering the publication of political advertisements, public

service announcements, public service advertisements, and the person or entity with an interest in the publication thereof shall not exert editorial influence over the media service, except for the time of publication.

(2) The political advertisement, public service announcement and public service advertisement shall be immediately recognizable in nature and distinguishable from other media contents. The method of distinguishing from other media contents in linear media services

(a) shall take place in the form of optical and acoustic notice in the case of audiovisual media services;

(b) shall take place in the form of acoustic notice in the case of radio media service.

(3) During election campaign periods, political advertisements may only be published in accordance with the provisions of the Act on Electoral Procedures. Outside of election campaign periods, political advertisements may only be published in connection with referendums already ordered. The media service provider shall not be responsible for the content of the political advertisement. If the request for the publication of the political advertisement is in compliance with the provisions of the Act on Electoral Procedures, and in such case the media service provider shall be obliged to publish the advertisement without further consideration.

(4) Upon the publication of political advertisements, public service announcements and public service advertisements, the person or entity ordering the publication shall be identified unequivocally.

(5) The media service provider may not request any remuneration for the publication of public service announcements.

(6) The public or community media service provider or the media service provider with significant market power shall be obliged to publish the public service announcements of the professional disaster management agency if it provides information on the potential occurrence of danger to safety of life or property, on the mitigation of the consequences of an event that has already occurred or on the tasks to be carried out. Such publication shall take place in the media service of the media service provider which has the highest audience share per year on average and in the manner defined by the media service provider, with the exception of the instance stipulated under Article 36 (6). The obligation of publishing shall also apply to the media service provider of the local media service operating in the reception area where the given events take place.

(7) The duration of the public service announcement may not exceed one minute. This restriction shall not apply to public service announcements specified in Article 15 and in Paragraph (6).

(8) Upon request of the media service provider, the Media Council shall decide – within fifteen days of receipt of the request and against an administrative service fee – by a regulatory decision whether the announcement in respect of which the request is lodged qualifies as a public service announcement, a public service advertisement or a political advertisement.

(9) Information concerning the corporate social responsibility of an undertaking shall not qualify as a surreptitious commercial communication, but such reports may only contain the name, logo and trademark of the undertaking and its product or service, if it is closely connected to its social responsibility. The slogan of the undertaking or any parts of its commercial communication may not appear in the report and the information may not expressly encourage the purchase of the product or the use of the service offered by the undertaking.

### **Advertisements and Teleshopping in Linear Media Services**

**Article 33** (1) The method of distinguishing advertisements and teleshopping from other media content in linear media services

(a) shall take place in the form of an optical or acoustic notice in case of advertisements and teleshopping broadcasted in an audiovisual media service;



(b) shall take place in the form of an optical and an acoustic notice in the case of teleshopping windows broadcasted in an audiovisual media service;

(c) shall take place in the form of an acoustic notice in the case of a radio media service.

(2) In linear media service the advertisement or teleshopping broadcasted by interrupting the programme – taking natural breaks, the duration and nature of the programme into consideration – may not interfere with the coherence of the programme to an unjustified extent or violate the rights or legitimate interests of the holder of the copyrights or the related rights to the programme.

(3) The programme broadcasted in a linear media service, which

(a) broadcasts political news or contains political information and its duration does not exceed thirty minutes;

(b) is intended for minors under the age of fourteen and its duration does not exceed thirty minutes;

(c) reports about the official events of national holidays;

(d) has religious or ecclesiastic content, save for cinematographic works, may not be interrupted with advertisements or teleshopping.

(4) The average volume, or the volume perceived by the viewer or the listener, of advertisements, teleshopping and previews broadcasted in a linear media service, and that of the acoustic notice indicating the broadcasting of advertisements or teleshopping or previews may not be higher than the volume of adjacent programmes.

(5) Virtual advertisements may only be broadcasted in a linear audiovisual media service if the media service provider draws attention to such broadcasting by an optical or acoustic notice immediately prior to the given programme and also immediately after the given programme. This obligation shall not apply to programmes which were not produced or ordered by the media service provider or another media service provider or production company under the qualifying holding of its owner.

(6) Virtual or split screen advertisements may not be published in a programme broadcasted in a linear audiovisual media service, which programme

(a) contains political news or political information and its duration does not exceed thirty minutes;

(b) is intended for minors under the age of fourteen and its duration does not exceed thirty minutes;

(c) reports about the official events of national holidays;

(d) has religious or ecclesiastic content; or

(e) is a documentary and its duration does not exceed thirty minutes.

(7) Split screen advertisements may only be broadcasted in a linear audiovisual media service if these are separated from the programme in terms of visual appearance in a clearly recognizable manner, on half of the screen at most, indicating the nature of the advertisement on the screen in a clearly visible manner.

**Article 34** (1) In sports programmes and other programmes featuring natural breaks, broadcasted in linear media services, advertisements may only be broadcasted between the parts and during such breaks, with the exception of split screen advertisements and virtual advertisements.

(2) A cinematographic work, news or political programmes, the duration of which exceeds thirty minutes – with the exception of television series or documentaries – broadcasted in a linear audiovisual media service may only be interrupted with advertisements or teleshopping once every thirty minutes, including the duration of advertisements and previews as well.

**Article 35** (1) The duration of advertisements broadcasted in linear media services may not exceed twelve minutes within any 60-minute period, i.e. hour to hour (from the top of the hour), including split screen advertisements, virtual advertisements and the promotion of the programmes of other media services, with the exception provided for in Point (e) of Paragraph (2).

(2) The time restriction defined under Paragraph (1) shall not apply to

(a) teleshopping windows;

(b) political advertisements;

- (c) public service announcements;
  - (d) public service advertisements;
  - (e) previews on the own programmes of the media service or the programmes of another media service operating under the qualifying holding of the given media service provider or its owner;
  - (f) sponsorship announcements as defined under Article 26 (2);
  - (g) product placements;
  - (h) noninteractive teletext, if it is broadcasted in a local media service;
  - (i) virtual advertisements appearing in programmes which were not produced or ordered by the media service provider or another media service provider or production company operating under the qualifying holding of the given media service provider or its owner;
  - (j) media service providers solely broadcasting advertisements and teleshopping;
  - (k) linear audiovisual media services advertising exclusively the media service provider or its other media services;
  - (l) announcements intended solely for the purpose of advertising the media service itself or the products complementing the programmes broadcasted in the media service.
- (3) The transmission time used for broadcasting teleshopping windows may not exceed three hours per calendar day, not including the transmission time of the thematic media service broadcasting primarily teleshopping or teleshopping windows.

### **Advertisements and Public Service Announcements in Public and Community Media Services**

**Article 36** (1) The duration of the advertisements and teleshopping broadcasted in the linear media service of the public media service provider may not exceed eight minutes within any 60-minute period, i.e. hour to hour (from the top of the hour). The duration of the advertisements and teleshopping broadcasted in the community media service may not exceed six minutes within any 60-minute period, i.e. hour to hour (from the top of the hour).

(2) The broadcasting of noninteractive teletext containing advertisements shall also be counted into the duration of advertisements defined under Paragraph (1) in the case of public media service.

(3) Advertisements in public and community media services may only be broadcasted in between the individual programmes – in the case of complex programmes composed of several parts, between the individual parts of the programme –, or before or after the programmes. In sports and other broadcasts with natural breaks, advertisements may also be broadcasted in between the parts and during the breaks.

(4) Presenters, reporters or newsreaders appearing regularly in the news and political programmes broadcasted in public and community media services cannot appear or play a role in advertisements or political advertisements broadcasted in any media service, except for the self promotion of public media services.

(5) In public and community media services, split screen advertisements and virtual advertisements may only be broadcasted in conjunction with the broadcast of sports programmes.

(6) *[not in effect]*

### **Disclosure Obligation**

**Article 37** (1) The media service provider shall ensure that the following data are continuously available to the public

- (a) its name or company name;
- (b) its address or registered office or mailing address;
- (c) its electronic mailing address;

(d) its telephone number;

(e) the name and contact details of the regulatory or supervisory authorities that are competent to proceed against it upon violation of rules concerning media administration;

(f) the name and contact details of the professional self-regulatory bodies authorised by them to proceed against the media service provider.

(2) The media service provider shall publish the data specified under Paragraph (1) on all of its websites and teletext pages connected to its media services, provided that it has any such websites or teletext pages. In the case of on-demand media services, such data shall also be published at the access point of the media service. Moreover, the media service provider shall also ensure that the interested parties may also receive information about the data defined in Points (a)-(c) and (e)-(f) on the telephone.

### **Public Service Obligations of Media Service Providers with Significant Market Power**

**Article 38** (1) Linear audiovisual media service providers with significant market power shall be obliged to broadcast a news programme or general information programme of at least fifteen minutes in duration on each working day between 7:00 a.m. and 8:30 a.m., and a separate news programme of at least twenty minutes in duration on each working day between 6:00 p.m. and 9:00 p.m. without interruption. Linear radio media service providers with significant market power shall broadcast a separate news programme of at least fifteen minutes in duration on each working day between 6:30 a.m. and 8:30 a.m. without interruption. News content or reports of a criminal nature taken over from other media service providers, or the news content or reports of a criminal nature which do not qualify as information serving the democratic public opinion, shall not be longer in duration on an annual average than twenty percent of the duration of the news programme.

(2) The linear media service provider with significant market power shall meet its obligation stipulated under Paragraph (1) above and in Article 32 (6) in its media service which has the highest annual average audience share.

(3) Linear media service providers with significant market power shall ensure in the course of all of their media services transmitted by digital media service distribution, that at least one quarter of the cinematographic works and film series originally produced in a language other than Hungarian, broadcasted between 7:00 p.m. and 11:00 p.m., shall be available in their original language, with Hungarian subtitles, including programmes starting before 11:00 p.m. but ending later.

### **Programmes Accessible to People with Impaired Hearing**

**Article 39** (1) Media service providers of audiovisual media services shall make efforts to gradually make their programmes accessible to people with impaired hearing as well.

(2) Public and – in respect of their media services with the highest annual average audience share – linear media service providers with significant market power shall be obliged to ensure that all public service announcements, political advertisements, news programmes (including traffic news, sports news and weather forecasts), political programmes, programmes about people with disabilities and programmes about equal opportunities, cinematographic works, games and programmes serving public service objectives defined under Article 83 are also accessible with Hungarian subtitles – for example through teletext – or with sign language.

(3) The obligation specified in Paragraph (2) shall not apply to the programmes made available in their original language, excluding the programmes published pursuant to Article 99 (2).

(4) The obligation specified in Paragraph (1) shall oblige the obligors for at least six hours of programmes per day in 2012, at least eight hours of programmes per day in 2013 and at least ten hours

of programmes per day in 2014.

(5) Media service providers shall provide subtitles or sign language throughout the entire duration of a programme that was begun with subtitles or with sign language, without interfering with the coherence of the programme, as well as in the case of programme series which are organically and closely connected to each other.

(6) It shall be indicated in media services prior to subtitled programmes that the respective programme is also available in that form through the teletext service connected to the media service. The subtitled version of the text of each programme shall be accurate and synchronised to the events displayed on the screen and can contain the brief summary of the words spoken in the programme only if the subtitles (due to their length) would not allow that the words spoken be followed.

(7) In case of programmes not prerecorded, the subtitles must be accurate and synchronised to the events displayed on the screen to a reasonably expected extent.

(8) Media service distributors shall be obliged to transmit the teletext signal or other subtitles provided by the audiovisual media service provider, synchronously with the image and sound signals, on all transmission systems, networks or media service distribution transmission platforms.

### **Rules Concerning Ancillary Media Services**

**Article 40** Articles 14-18, Article 19 (2) and Article 20 of the Press Freedom Act shall apply to ancillary media services *mutatis mutandis*.

## **Chapter II**

### **THE RIGHT TO PROVIDE MEDIA SERVICES AND PUBLISH PRESS PRODUCTS**

#### **General Provisions**

**Article 41** (1) The provision of linear media services subject to this Act provided by media service providers established in Hungary may commence subsequent to the notification of and registration by the Office of the National Media and Infocommunications Authority (hereinafter as: the Office), with the exception of analogue linear media services using state-owned limited resources, which may be provided subject to winning a tender announced and completed by the Media Council and entering into an agreement thereto, or entering into a provisional public contract as per Article 65 of this Act.

(2) On-demand media services and ancillary media services provided by media service providers established in Hungary, as well as press products published by a publisher established in Hungary, falling under the scope of this Act, shall be notified to the Office for registration, within sixty days from commencement of the service or activity. The registration shall not be a precondition for starting such a service or activity.

(3) Under the framework of this Act, the notifier initiating such registration may be any natural person or person.

(4) The Office shall keep a register of

- a) linear audiovisual media services;
- b) linear radio media services;
- c) audiovisual media services, the providers of which obtained the media service provision rights via tendering;
- d) radio media services, the providers of which obtained the media service provision rights via tendering;
- e) on-demand audiovisual media services;
- f) on-demand radio media services;
- g) ancillary media services;

- h) printed press products;
- i) online press products and news portals.

(5) In the event a media service provider provides both linear and on-demand services, or if a press product publisher publishes both printed and online press products, it shall notify each of its media services or press products separately.

(5a) In the event the publisher makes available on the Internet a printed press product in the form of a digital copy (having fully identical contents) of such printed press product, then such Internet content shall be considered as a copy of the printed press product and shall not be required to be notified as a separate online press product.

(6) The data recorded in the registers mentioned in Paragraph (4) concerning the names, contact information of media service providers, press product founders and publishers, as well as the names and titles of the media services and press products shall be publicly available and accessible on the website of the National Media and Infocommunications Authority (hereinafter as: the Authority). For the purposes of monitoring media services and press product publishing, the Authority shall handle the identification data of natural person media service providers and of natural persons founding and publishing press products until such data are deleted from the register.

(7) Linear media service provision rights shall not be transferable.

**Article 41/A** (1) The following are not allowed to be included in the name or title of press products and media services:

a) the name of a person who had a leading role in the foundation, creation or maintenance of any of the authoritarian political regimes of the 20th century, or

b) an expression or the name of an organisation that can be directly associated with an authoritarian political regime of the 20th century.

(2) In the course of the registration process, the Office shall examine fulfilment of the conditions specified under Paragraph (1). If there is any doubt or uncertainty, the position of the Hungarian Academy of Sciences must be obtained by the Office in the course of the registration process, or by the court in the course of the court procedure connected to the registration process.

### **Linear Media Service Provision Rights Based on Notification**

**Article 42** (1) The registration of linear media services may be initiated by the future media service provider thereof. Notifiers intending to provide linear media services without using state-owned limited analogue resources shall notify the Office of the followings at least forty-five days prior to taking up the media service provision activity:

a) particulars of the notifier:

aa) name,

ab) address (registered office), designation of place(s) of business directly affected by the media service provision,

ac) contact information (telephone number and electronic mailing address),

ad) name and contact information (telephone number, postal and electronic mailing address) of its executive officer, representative, and of the person appointed to liaise with the Authority,

ae) company registration number, or registration number,

b) the notifier's effective Deed of Foundation and the specimen of signature of its representative authenticated by a notary public [except for the case stipulated under Paragraph (2a)], if the notifier is not a natural person;

c) basic particulars of the planned media service:

ca) kind (radio or audiovisual),

cb) type (general or thematic),

cc) character (commercial, community),



- cd) permanent name,
  - ce) name, address (registered office), contact information (telephone number and electronic mailing address) of the electronic communications service provider likely to perform broadcasting,
  - cf) planned number of subscribers,
  - cg) type of the electronic communications network planned for broadcasting,
  - ch) name of the settlements affected by broadcasting,
  - ci) media service transmission time, transmission time schedule and planned programme flow structure,
  - cj) daily, weekly, monthly minimum transmission time intended for broadcasting public service programmes, programmes dealing with local public affairs, or programmes supporting local everyday life,
  - ck) minimum transmission time intended for daily regular news programmes,
  - cl) planned daily minimum transmission time serving nationalities,
  - cm) planned ancillary media services,
  - cn) the media service signal, and – in case of audiovisual media services – the emblem of the media service,
  - co) the fact of expansion of the reception area, or connecting to the network, if applicable.
  - d) in case of satellite media services, a statement of intent from the provider of the satellite capacity the notifier plans to use, with respect to the lease of the channel, also indicating its frequency, technical specifications and fee,
  - e) data on the size of direct or indirect ownership stake held by the notifier or by any other person with a qualifying holding in the notifier undertaking, in any undertaking providing media services, or applying for media service provision rights, within the territory of Hungary,
  - f) planned date of launching the media service.
- (2) The notifier shall make a statement that no grounds for exclusion under the Act would arise against it in case of its registration.
- (2a) If the notifier is a company registered in the company register and if it has submitted to the court of registration the specimen of signature of its representative authenticated by a notary public or countersigned by an attorney-at-law and this fact is indicated in the company register, the Office shall obtain the given deed by downloading it electronically directly from the company register.
- (3) Linear media service provision may only be commenced after the completion of registration. The Office shall adopt a regulatory decision on the registration of the linear media service within forty-five days, wherein it shall set forth the media service provision fee payable after each linear media service by the media service provider.
- (4) In the event that the Office fails to adopt the decision on the registration within forty-five days after the notification, the notification shall be deemed as registered, with the provision that the rights holder shall be informed about the fact of registration and the amount of the media service provision fee by virtue of a decision within fifteen days.
- (5) In the course of the registration procedure, the Office shall examine whether the jurisdiction of Hungary can be established in relation to the notified media service pursuant to this Act.
- (6) The Office shall refuse the registration of the linear media service, if
- a) a conflict of interests set forth in Article 43 exists *vis-à-vis* the notifier,
  - b) the notifier, or any of its owners, has overdue fees from earlier media service activities,
  - c) it would be in violation of the provisions set forth in Article 68 on the prevention of media market concentration,
  - d) the notification does not contain the data provision required under Paragraph (1), even after notice to remedy the deficiencies,
  - e) the name of the notified media service is identical with – or is confusingly similar to – the name of a linear media service already registered, having valid records at the time of notification, or

f) the notifier failed to pay the administrative service fee.

(7) The Office shall delete the linear media service from the register, if

a) refusal of registration would be applicable,

b) the media service provider requested its deletion from the register,

c) the media service provider failed to pay its overdue fees within thirty days from the Office's written notice thereto,

d) the rights holder fails to commence the media service within six months from the date of registration, or interrupts the ongoing service for more than six months, except if the media service provider provides adequate justification thereto,

e) a final decision by a court has ordered the cessation of trade mark infringement perpetrated through the use of the media service's name and barred the infringer from further violation of the law, or

f) based on repeated and serious violation of the media service provider, the Media Council ordered the application of this legal sanction with regard to the provisions of Articles 185-187.

(8) The provisions of Paragraphs (1)-(7) shall also apply to linear media service provision via satellite involving the use of satellites not subject to Government control.

(9) The media service provider of a linear media service shall notify the Office about any changes concerning its registered data within fifteen days after the change.

(10) The Office shall have the right to impose a fine as per Points (ba) or (bb) of Paragraph (3) of Article 187 on the media service provider in case of late performance or non-performance of the notification on such data changes.

(11) The permission of the Media Council granted in the form of a regulatory decision in line with the provisions set forth in Article 64 of this Act shall be required for every media service provider to connect to the network or to expand their reception area.

### **Conflict of Interest Rules of Linear Media Service Providers**

**Article 43** (1) For persons authorized to provide linear media services, the provisions set forth in Article 118 (1) (a)-(c) concerning the Authority's President, Vice-President, Director General and Deputy Director General shall be applicable.

(2) Furthermore, the following persons shall not be entitled to provide linear media services:

a) judges and public prosecutors;

b) executive officers of public administration bodies, the National Bank of Hungary, the Hungarian Competition Authority, and the Hungarian State Holding Company (Magyar Nemzeti Vagyonkezelő Zrt.), the President, Vice-President, secretary general, executive officer, or auditor of the State Audit Office of Hungary, and Members of the Hungarian Competition Council;

c) the Authority's President, Vice-President, Director General, Deputy Director General, and any person in work-related legal relationship with the Authority;

d) a close relative of persons falling within the scope of Article 118 (1) (a)-(b) and of those specified under Points (b)-(c) above.

(3) The following organisations shall not be entitled to provide linear media services:

a) political parties or undertakings established by political parties;

b) state and public administration bodies, unless provided otherwise by legislation applicable in the event of an extraordinary situation or state of emergency;

c) undertakings in which the Hungarian state has a qualifying holding;

d) undertakings in which any of those listed under Paragraphs (1)-(2) hold a direct or indirect ownership stake, or have acquired the right to influence its decisions pursuant to a separate agreement or by other means; or a person or organisation otherwise subject to acquisition restrictions.

(4) An undertaking shall not be entitled to provide local linear media service in a reception area of

which at least twenty percent falls within the limits of local government jurisdiction, if any local government representative or employee, the Mayor, Deputy Mayor, the Mayor of Budapest, the Deputy Mayor of Budapest, or any of their close relatives hold an office in the Board of Directors, management or the Supervisory Board of such an entity, or in the Board of Trustees of a Foundation or a Public Foundation.

(5) For the purposes of Paragraph (3) (d), an undertaking in which the Mayor of Budapest, the Deputy Mayor of Budapest, the Mayor, or Deputy Mayor, the chairperson or deputy chairperson of the county-level general assembly, or a close relative of a member of the local or county level government holds a direct or indirect qualifying holding, or is entitled to influence the decisions thereof under a separate agreement or otherwise, may not be entitled to provide linear media services if the reception area of the respective media service covers at least twenty percent of the territory of the affected local government.

### **Media Service Provision Fee**

**Article 44** (1) Persons or entities entitled to provide linear media services by virtue of registration shall pay a media service provision fee specified by the Office.

(2) The media service provider shall pay a quarterly media service provision fee in advance, as a consideration. In the event of connecting to a network, the networked media service provider shall pay the media service provision fee payable by the media service provider joining the network in proportion to its networked transmission time.

(3) In the event of late payment of the fee, the Media Council may terminate the agreement with a fifteen day notice period.

(4) Default in fee payment shall be deemed a serious breach of law.

(5) With respect to media services subject to public contract or broadcasting agreement, the media service provision fee shall be the sum total of the media service provision basic fee applicable to the given media service provision rights and the fee instalment undertaken by the tenderer winning the tender procedure. The Media Council shall determine the media service provision basic fee in the invitation to tender.

(6) The media service provision basic fee shall be proportionate to the area of the given media service's reception area. At the same time, it shall give due consideration to the purchasing power indicator of the given area's population, as well as to the market share attained by media service provider groups grouped according to their reception area, media service type, mode of distribution, or other significant criteria.

(7) The media service provision fee payable on linear media services subject to registration shall be proportionate to the reception area of the given media service. At the same time, it shall give due consideration to the purchasing power indicator of the given area's population, as well as to the market share attained by media service provider groups grouped according to their reception area, media service type, mode of distribution, or other significant criteria.

(8) When setting the media service provision fee payable with respect to linear media services provided via terrestrial digital broadcasting systems or satellite systems accessible without payment of a subscription fee, due consideration shall be given to data about the reception area of the given media service, as well as to the availability (prevalence) of equipment suitable for reception of such media service.

(9) No media service provision fee shall be payable for community media services.

(10) In the event of expansion of the reception area, the media service provision fees established for each individual reception area shall be added up.

### **Notification of On-Demand Media Services**

**Article 45** (1) The registration of on-demand media services may be initiated by the media service provider thereof. The notification to the Office of the on-demand media service shall include:

- a) particulars of the notifier:
  - aa) name,
  - ab) address (registered office or place of business), designation of place(s) of business that are directly affected by the media service provision,
  - ac) contact information (telephone number and electronic mailing address),
  - ad) name and contact information (telephone number, postal and electronic mailing address) of the executive officer, representative of the media service provider, and of the person appointed to liaise with the Authority,
  - ae) company registration number, or registration number,
- b) basic particulars of the planned media service:
  - ba) kind (radio or audiovisual)
  - bb) name
  - bc) type (general or thematic)
- c) the planned date of launching the media service.

(2) The following shall not be entitled to provide on-demand media services: the National Media and Infocommunications Authority's President, Vice-President, Director General, Deputy Director General, or the Chairperson or member of the Board of Trustees of the Public Service Foundation or the Chairperson or member of the Board of Public Services, the CEO of the Fund, the President, Deputy President or member of the National Council for Communications and Information Technology, the CEO of the public media service provider, the Chairperson or member of the Supervisory Board thereof, members of the Media Council, and persons in work-related legal relationship with any of the aforesaid organizations. The notifier shall make a statement that no conflict of interest under the Act exists or would arise *vis-à-vis* him/her/it as a result of registration of the media service.

(3) The Office shall register the on-demand media service within thirty days.

(4) The Office shall withdraw the registration if

- a) a conflict of interests exists *vis-à-vis* the notifier, or
- b) the name of the notified media service is identical with – or is confusingly similar to – the name of an on-demand media service already registered, having valid records at the time of notification.

(5) The on-demand media service shall be deleted from the register, if

- a) the registration is to be withdrawn pursuant to Paragraph (4),
- b) the media service provider requested its deletion from the register,
- c) the media service is not commenced for more than a year, or the ongoing media service is interrupted for more than a year, or
- d) a final decision by a court has ordered the cessation of trade mark infringement perpetrated through the use of the media service's name and barred the infringer from further violation of the law.

(6) The media service provider of an on-demand media service shall notify the Office about any changes concerning its registered data within fifteen days.

(7) In the event of a change in the media service provider's person, the media service provider making the original notification shall initiate a modification of the data on record. Paragraphs (1)-(4) shall be applied *mutatis mutandis* to such procedure.

(8) In the event the media service provider fails to comply with its obligations related to registration, the Office may impose a fine up to one million forints, taking into consideration the principles set forth in Article 185 (2).

## Notification of Press Products

**Article 46** (1) Registration of a press product may be initiated by its publisher or founder. In the event that the founder and publisher of a press product are different persons or undertakings, they shall enter into an agreement wherein they shall define their relationship, and their responsibilities and rights regarding the press product.

(2) Notifications for the registration of press products shall contain the following information:

a) particulars of the notifier:

aa) name,

ab) address (registered office or place of business),

ac) contact information (telephone number and electronic mailing address),

ad) name and contact information (telephone number, postal and electronic mailing address) of its representative, and of the person appointed to liaise with the Authority,

ae) company registration number, or registration number,

b) the title of the notified press product,

c) the web address (URL) of the online press product, news portal, and the digital copy of the printed press product made available on the Internet,

d) in the event the founder and the publisher are different persons or undertakings, the particulars of both of them, as defined in Point (a).

(2a) Unless otherwise regulated by other pieces of legislation, the copy of the deed verifying the right of representation shall be attached to the notification for the registration of the press product (if the notifier is not a natural person), hence in particular the copy of the specimen of signature or authorisation.

(3) The following persons may not be founders or publishers of press products: the National Media and Infocommunications Authority's President, Vice-President, Director General, Deputy Director General, or the Chairperson or member of the Board of Trustees of the Public Service Foundation or the Chairperson or member of the Board of Public Services, the CEO of the Fund, the President, Deputy President or member of the National Council for Communications and Information Technology, members of the Media Council, not including the founding or publishing of press products aimed to publish scientific results or to disseminate popular science. The notifier shall make a statement that no conflict of interest under the Act exists or would arise *vis-à-vis* him/her/it as a result of registration.

(4) The Office shall register the press product within fifteen days.

(5) The Office shall withdraw the registration if

a) a conflict of interests exists *vis-à-vis* the notifier, or

b) the title of the notified press product is identical with – or is confusingly similar to – the title of a press product already registered, having valid records at the time of notification, or if the name of the press product does not meet the requirements specified under Article 41/A (1).

(5a) Point b) of Paragraph (5) shall not be applied for those press products that are required to provide data in accordance with Article 208 (2).

(6) The press product shall be deleted from the register, if

a) the registration is to be withdrawn pursuant to Paragraph (5),

b) the founder or – if the founder and the publisher are different undertakings, with the approval of the founder – the publisher requested deletion from the register,

c) publication of the press product is not commenced within two years from the date of registration, or ongoing publication is interrupted for over five years,

d) a final decision by a court has ordered the cessation of trade mark infringement perpetrated through the use of the title of the press product and barred the infringer from further violation of the law, or

e) the founder of the legal entity or organisation without legal personality has been dissolved or



terminated without legal successor at least fifteen days ago.

(7) The publisher and founder of the press product shall notify the Office about any changes concerning the registered data within fifteen days. The title of the press product registered in the official register cannot be changed.

(8) In the event of a change in the publisher's person, the publisher on record shall initiate modification of the data on record. In case of failure of this, the founder may also initiate the modification. Paragraphs (1)-(5) shall be applied *mutatis mutandis* to such procedure.

(8a) In the event the publisher or the founder fail to comply with their obligations related to registration, the Office may impose a fine up to one million forints, taking into consideration the principles set forth in Article 185 (2).

(9) Press products and – unless legislation provides otherwise – other publications must display the key editorial and publication data (imprint). The imprint shall display the following information:

- a) publisher's name, registered office, and the name of the person responsible for publishing,
- b)-c) *[not in effect]*
- d) the name of the person responsible for editing.

(10) An international identifier of printed press products (ISSN), other international markings, and the price of the publication shall be determined and displayed pursuant to separate legislation.

(11) Legislation may also prescribe the use of a short imprint, the obligation of displaying special data, or other specific rules.

(12) For academic and administrative purposes, a free legal deposit copy of printed press products and other publications shall be provided to the bodies designated by separate legislation. The legal deposit copy shall remain in the ownership of the body entitled thereto. Detailed rules for making available legal deposit copies shall be regulated by a government decree.

(13) Free legal deposit copies of printed press products and other publications shall be delivered to the bodies designated by separate legislation in order to preserve cultural assets, to ensure national bibliographical accounting and public library services. The legal deposit copy shall remain in the ownership of the body entitled thereto.

(14) A legal deposit copy for preservation purposes may only be removed from the public collection records, if it was destroyed or has become irreparably damaged.

### **Notification of Ancillary Media Services**

**Article 47** The registration of ancillary media services shall be subject to the regulations applicable to the registration of on-demand media services.

## Chapter III OBTAINING THE RIGHT TO PROVIDE LINEAR MEDIA SERVICES VIA TENDER

### **General rules**

**Article 48** (1) Analogue linear media services using state-owned limited resources may be provided – unless provided otherwise by this Act – subject to winning a tender announced and conducted by the Media Council and entering into a public contract.

(2) The procedures applied for tenders announced concerning the rights to provide linear media services using state-owned limited resources (hereinafter as: tender procedure) shall be governed by the provisions of the Act on Administrative Proceedings, subject to the deviations set forth in this Act.

(3) The Media Council shall – subject to the deviations set forth in this Act – be in charge of managing the tasks related to the tender procedure.

(4) *[not in effect]*

(5) The right to provide analogue linear media services using state-owned limited resources shall, in the case of radio, be valid for a maximum period of seven years or, in the case of audiovisual media service provision, for a maximum period of ten years, and it may be – upon expiry – renewed one time for a maximum of five years without a tender procedure upon the media service provider's request, with the provision that the audiovisual media service provision agreements shall expire on the date set forth under Article 38 (1) of the Digital Switchover Act. The request for renewal must be notified to the Media Council fourteen months prior to the expiry. Renewal shall be refused in case of failure to meet this deadline. The Media Council shall adopt its decision about renewal of the right no sooner than four months prior to expiry of the right and no later than two months prior to expiry of the right.

(6) *[not in effect]*

(7) The right may not be renewed, if

a) the Media Council established, in its final and binding decision, that the media service provider repeatedly or seriously violated the provisions set forth in the agreement or in this Act,

b) the media service provider had been subject previously to the sanction specified in Article 112 (1) (b) of Act I of 1996 on Radio and Television Broadcasting due to any breach of the agreement, or

c) the media service provider is in arrears with the media service provision fee at the time of submission or evaluation of the request.

(8) The Media Council, with due regard to the appropriate application of the provisions of Chapter III and the unique characteristics deriving from the nature of these media service facilities, shall determine and publish on its website the principles of the tender procedure regarding the small community media service facilities. Small community media service facilities may not be subject to tendering and may not be operated commercially.

(9) Upon the Media Council's request, the Office shall compile the register of media service facilities.

### **Preparation of Tender Procedures for Media Service Provision**

**Article 49** (1) The Media Council shall, for purpose of preparing tender procedures regarding media services, request the Office to draw up frequency plans.

(2) In the request as per Paragraph (1), the Media Council shall establish the conceptual criteria required for drawing up a broadcast frequency plan, in particular:

a) the objective of frequency use,

b) the preferences to be applied in frequency planning,

c) the frequency planning schedule.

(3) The frequency plan prepared shall contain:

a) the broadcasting stations' nominal places of business, and other technical requirements of installation,

b) the expected reception area of the stations,

c) the frequency band according to the International Radio Regulation markings.

(4) The Media Council may return the frequency plan for modification.

(5) The Office shall publish the frequency plan for at least fifteen days, prior to approval by the Media Council. The Office shall issue a public notice on the website of the Media Council concerning the publication of the plan and its location, at least one week prior to the starting date of publication of the plan. During the period when the frequency plans are published and for five days after closing the frequency plans, any person may submit written comments – addressed to the Media Council – with respect to the frequency plans.

(6) The Media Council shall make a decision with respect to the approval of the frequency plan and the preparations for a draft invitation to tender within forty-five days from the last day of publication.

(7) The frequency plans and the conceptual criteria of planning shall be public and available for inspection at the Office.

(8) For the purpose of planning the media service facility, the Authority may, in exchange for a fee and upon the request of clients, provide data, provided that the Media Council approved the planning of media service facility in advance with respect to the reception area specified in the request and with due consideration of media market and media policy considerations. Media service facilities thus planned shall henceforth be subject to the provisions of this Act applicable to tender procedures.

### **Draft Invitation to Tender**

**Article 50** (1) The Media Council shall, with a view to preparing the invitation to tender, compile a draft invitation to tender about the tender conditions. The Media Council shall publish the draft invitation to tender, with justification, via public notice and on its website.

(2) Between the twentieth – the earliest – and the thirtieth – the latest – day from publishing the draft invitation to tender, the Office shall hold a public hearing (hereinafter as: hearing).

(3) The Office shall publish, via public notice and on the Media Council's website, an announcement about the time and venue of the hearing, at least ten days prior to the hearing.

(4) Anyone may comment on the draft invitation to tender verbally or in writing, at the hearing and anyone may lodge a question or submit a comment to the Office in writing within five days from the hearing.

(5) Minutes of the hearing shall be prepared within eight days and shall be available for inspection at the Office.

(6) The Media Council shall decide about the finalisation of the draft invitation to tender within forty-five days from the hearing, and, as far as possible, it shall take into account the comments received and the recommendations made at the public hearing.

### **The Tender Procedure**

**Article 51** (1) The tender procedure shall – with the exceptions specified in this Act – commence ex officio with the publication of the invitation to tender.

(2) The administrative deadline for the tender procedure shall be eighty-five days. This deadline shall not include – beyond those set forth in the Act on Administrative Proceedings – the time period from the day the invitation to tender is published to the submission of the tender. In justified cases, the deadline may be extended on one occasion, with the maximum of twenty days.

### **The Invitation to Tender**

**Article 52** (1) The Media Council shall publish invitations to tender for the utilisation of media service facilities.

(2) The invitation to tender shall include:

- a) the data of the media service facility as per Article 49 (3),
- b) the objective of the invitation to tender,
- c) the fundamental rules governing the rules of procedure,
- d) the tender fee and the payment method thereof,
- e) the minimum amount of the media service provision fee (media service provision basic fee), below which media service provision rights cannot be awarded, with the exception of the provision of community media services,
- f) the form of and deadline for the submission of tenders,
- g) the required contents of tenders,

h) the principles of evaluation and the criteria to be taken into consideration during evaluation, the categories for evaluating tenders, the quantified evaluation framework allocated to specific evaluation categories, as well as the rules of evaluation based on which the Media Council adopts its decision about the winning tenderer,

- i) the starting date of the provision of the media service,
- j) the term of the media service provision right,
- k) the formal requirements of tenders,
- l) the validity criteria of tenders concerning their form and contents,
- m) other criteria according to the Media Council's decision.

(3) In addition to the criteria defined under Paragraph (2), the invitation to tender may also include the following criteria, in particular:

- a) commitment concerning the offer validity of the submitted tenders, the term thereof,
- b) the specific proportion of programmes serving public service objectives set forth in Article 83,
- c) the ratio of programmes on subjects related to local public affairs or facilitating local everyday life,
- d) predefined extent of service to nationalities and other minority needs,
- e) the obligation to provide news services,
- f) tender criteria for connecting to a network and expanding the reception area,
- g) criteria for the provision of ancillary and value-added media services.

(4) The Media Council shall publish the invitation to tender through a public notice and on its website.

(5) The invitation to tender shall be announced so that, from the day of its publication

- a) at least sixty days are available for the submission of tenders for the provision of national media services,
- b) at least forty days are available for the submission of tenders for the provision of regional media services,
- c) at least thirty days are available for the submission of tenders for the provision of local media services.

### **Amending and Withdrawing the Invitation to Tender**

**Article 53** (1) The Media Council shall be entitled to amend the invitation to tender along the principles of an objective, transparent and non-discriminative procedure.

(2) The invitation to tender may be amended until no later than the fifteenth day prior to the submission of the tenders.

(3) Any amendment to the invitation to tender shall be published in accordance with the rules governing the publication of the invitation to tender.

(4) In the event the invitation to tender is amended, the Media Council shall be obliged to extend the deadline for the submission of tenders, ensuring that the period available for the submission of tenders as defined under Article 52 (5) remain available from the date of the publication of the invitation to tender.

(5) The Media Council may withdraw the invitation to tender until no later than fifteen days prior to the deadline for submission of the tenders, by taking into consideration media market and media policy aspects. The Media Council shall publish this decision in the same manner as the invitation to tender, and give reasons for its decision.

### **The Tender Fee**

**Article 54** Tenderers submitting a tender shall pay a tender fee. The tender fee shall be five percent

of the published media service provision basic fee. Eighty percent of the tender fee shall be offset against (deducted from) the media service provision fee.

### **The Tenderer**

**Article 55** (1) Only those undertakings may participate in the tender procedure that

a) have no customs or social security contributions overdue for longer than sixty days or overdue taxes registered by the central tax authority, or any overdue payment obligations to separate state funds, except if the creditor has agreed to the payment of the debt at a subsequent date in writing,

b) are not under bankruptcy, liquidation, members' voluntary liquidation, or other winding up proceedings, and

c) in regard to which no final public administration ruling has established a serious breach of obligations stemming from a broadcasting agreement or a public contract undertaken on the basis of a previous tender procedure – closed not more than five years ago – and the broadcasting agreement or public contract of which has not been terminated,

d) does not have overdue debts to the Media Council.

(2) Any undertaking with a qualifying holding in the tenderer or in which the tenderer has qualifying holding must also meet the criteria laid down under Paragraph (1) (a)-(d).

(3) Only those entities shall be eligible to participate in the tender procedure that comply with the provisions on conflict of interests defined under the Act. A conflict of interest shall hold, regarding the tenderer in the tender procedure announced in terms of the national analogue media service provision right, if the given tenderer or an undertaking having a qualifying holding in the tenderer is declared by the Media Council as the winner of another ongoing tender procedure. A conflict of interest shall hold, regarding the tenderer in the tender procedure announced in terms of the regional or local analogue media service provision right, if the given tenderer or the undertaking having a qualifying holding in the tenderer is declared by the Media Council as the winner of another ongoing tender procedure announced in terms of the reception area of the local or regional media service, except if the extent of overlapping between the reception areas of the two media service provision rights does not exceed twenty percent.

(4) If the tenderer, or the undertaking having a qualifying holding in the tenderer, or the undertaking in which the tenderer holds a qualifying holding, has a media service provision right falling under the scope of this Act which excludes acquisition of the right announced in the invitation to tender, it may only submit a tender if it declares in a legally binding declaration, forming part of its tender, that if it is declared as the winner of the tender, it shall either relinquish the affected media service provision right or any claim to such right as of the date of the conclusion of the agreement, or undertake to terminate the situation violating the restrictive provisions in another manner, as of this same date.

(5) Undertakings holding a qualifying holding in one another, or an undertaking in which the other undertaking holds a qualifying holding, or in which the same third party holds a qualifying holding shall not be permitted to participate in the tender procedure simultaneously.

### **The Tender**

**Article 56** The tender shall contain:

a) the particulars of the tenderer:

aa) name,

ab) address or registered office,

ac) company registration number or registration number,

ad) contact details (telephone number and electronic mailing address),



ae) name and contact information (telephone number, postal and electronic mailing address) of its executive officer, representative as well as the specimen of signature certified by a notary public or countersigned by an attorney-at-law,

b) the tenderer's effective Deed of Foundation,

c) the tenderer's declaration on the ownership share, either direct or indirect, held by the tenderer or by another undertaking holding an ownership share in the tenderer, in the undertaking providing media services in the territory of Hungary or applying for media service provision rights in Hungary,

d) basic particulars of the planned media service:

da) type (general or thematic),

db) reception area,

dc) the broadcasting transmission facility wished to be used,

de) kind (commercial, community),

df) the transmission time and transmission time schedule of the service,

dg) the planned ancillary media services,

dh) permanent name and signal of the media service,

di) the fact of expansion of the reception area, or connecting to the network, if applicable,

dj) the planned programme flow structure,

dk) daily, weekly, monthly minimum transmission time intended for broadcasting programmes serving the public service objectives set forth in Article 83, programmes dealing with local public affairs, or programmes supporting local everyday life,

dl) daily, weekly, monthly minimum transmission time intended for broadcasting news programmes,

dm) planned daily minimum transmission time serving the needs of nationalities or other minorities,

e) with the exception of community media service, the offer for the media service provision fee,

f) the media service provider's business and financial plan,

g) a bank certificate confirming that the amount required to cover the operating costs of the planned media service for at least the first three months of operation, excluding advertising revenue, is available for the tenderer on a separate current account,

h) the tenderer's declaration stating that no grounds for exclusion, as defined in this Act, exist *vis-à-vis* it, and that the possible acceptance of another pending tender of the tenderer will not create such grounds for exclusion either,

i) any other data, documents and declarations defined in the invitation to tender.

### **Evaluation and Formal Validity of Tenders**

**Article 57** (1) The Media Council shall examine whether the tenderer complies with the applicable formal and content requirements.

(2) Tenders shall be deemed formally invalid if

a) the tenderer does not meet the personal or participation criteria set forth in Article 55, or the conflict of interest requirements under this Act,

b) the tender was not submitted by the deadline, at the place, in the number of copies or in the manner defined in the invitation to tender,

c) the tender fee was not paid in time,

d) the tender does not comply with the formal requirements defined in the invitation to tender,

e) the data and information listed in Article 56 are not included in the tender or are included inadequately.

(3) No remedy of deficiencies is permitted with regard to the formal requirements specified under Points a)-d) of Article 57 (2). Only those deficiencies revealed in terms of the requirement of form

specified in Article 57 (2) e) shall be allowed to be remedied which relate to the information and data as per Article 56 b), c), dc), df)-dm), and f)-i).

(4) Deficiencies may be remedied by the tenderer within fifteen days of delivery. If the tenderer duly remedies the deficiencies within the deadline set forth in the invitation to tender, the tender shall be deemed as if it was correct and complete right from the start. The deadline defined for remedying deficiencies represents the expiry of the limitation period; no petition for excuse may be submitted after its expiry. No remedy of deficiencies is permitted with regard to those elements of the tender that are subject to evaluation pursuant to the invitation to tender.

(5) Fifty percent of the tender fee shall be reimbursed in the case of formally invalid tenders.

### **Tender Register and Formally Invalid Tenders**

**Article 58** (1) The Media Council shall record the tenderers having submitted a formally valid tender in an official register (hereinafter referred to as: tender register) within forty-five days of expiry of the submission deadline. The Office shall notify the tenderers – i.e. participants from then on – of their entry into the tender register, and publish the list of tenderers recorded in the tender register on the Media Council’s website.

(2) In the case of tenders that are formally invalid pursuant to Article 57 (2), the Media Council shall reject the registration of the tenderer in the tender register by way of an order. The order rejecting the registration shall terminate the tenderer’s client status under the procedure. The tenderer may request the Budapest Administrative and Labour Court to review the order rejecting the registration in the tender register on grounds of a breach of law, within eight days of the communication of the order. The court will pass its decision, based on the hearing of the parties, if necessary, in out-of-court proceedings within fifteen days. No appeal can be lodged against the decision of the Budapest Administrative and Labour Court. If a request is submitted for an out-of-court proceeding, the Media Council shall suspend the tender procedure until the final decision of the court is made. No independent legal remedy against the Media Council’s order to suspend the tender procedure can be obtained.

(3) If the Media Council discovers causes of formal invalidity only after registration in the tender register, in the course of the tender’s evaluation on the merits, it shall not establish the formal invalidity of the tender in a separate order; rather, it shall stipulate such invalidity in the decision closing the tender procedure.

### **Substantive Validity of Tenders**

**Article 59** (1) When examining the substantive validity of the tenders, the Media Council shall evaluate and check the tender submitted by the tenderer entered into the tender register both as a whole and also in respect of each tender component separately.

(2) If the tender is deficient in terms of content, the Media Council shall call on the tenderer to remedy the deficiencies. Article 57 (4) shall apply to the remedy of deficiencies. If the tender is not adequately clear, the Media Council may, without prejudice to the principle of equal opportunities, request clarification from the tenderer. The tenderer shall have fifteen days for clarification from the date of delivery of the respective request. Clarification may not result in modification of any financial or other commitments pertaining to value or other material statements; it may only serve the interpretation thereof.

(3) A tender shall be deemed substantively invalid if

a) it contains – among the commitments forming part of the evaluation criteria of the invitation to tender – incomprehensible, contradicting or clearly unfeasible commitments or conditions that impede the evaluation of the tender on the merits,

b) in the opinion of the Media Council, the tender contains commitments that are unfeasible, excessive or insufficient or highly disproportionate, or contains such clearly irrational or unfounded commitments or conditions that contradict the facts and data available to the Media Council, and thus render evaluation in accordance with the set of criteria defined in the invitation to tender impossible,

c) the tender is unsuitable for achieving or implementing the objectives defined in this Act and in the invitation to tender since the tender itself is unfounded, or

d) it does not comply with the substantive requirements defined in the invitation to tender.

(4) The Media Council shall not establish the substantive invalidity of the tender in a separate order; rather, it shall stipulate such invalidity in the decision closing the tender procedure.

(5) Fifty percent of the tender fee shall be reimbursed in the case of substantive invalidity.

### **Evaluation of Tenders**

**Article 60** (1) Tenders shall be evaluated on the basis of the principles and criteria defined in the invitation to tender. Evaluation criteria shall be based on quantitative or other assessable factors, and be in line with the subject of the tender or the material conditions of the public contract.

(2) The Media Council may, in connection with a tender component related to the evaluation criteria, determine, in the invitation to tender, a requirement compared to which no less favourable offer can be made.

(3) The evaluation principles shall be transparent, free from discrimination and proportionate.

(4) Tenders must be evaluated in the way defined in the invitation to tender: no deviation shall be allowed in this respect.

### **Termination of the Tender Procedure**

**Article 61** (1) The Media Council may terminate the tender procedure through an order if

a) no tenders are submitted for the invitation to tender,

b) the tender procedure loses its original purpose due to circumstances or conditions arising in the course of the tender procedure, thus in particular if the national or international economic environment changes substantially following the invitation to tender, or if the economic, legal, spectrum management or media service market circumstances or conditions prevailing at the time of the publication of the invitation to tender change materially,

c) in the opinion of the Media Council, the media policy aspects or the fundamental principles or objectives defined under this Act or in the invitation to tender cannot be guaranteed by executing the tender procedure, or

d) based on the tenders submitted or the information available, the Media Council establishes that none of the tenders submitted by the tenderers satisfy the objectives or basic principles laid down in this Act, or that declaring any one of the tenderers as the winner would jeopardise the responsible, proper and effective management of frequencies constituting state property.

(2) The Media Council shall publish its decision as per Paragraph (1) in the same place and in the same manner as the invitation to tender.

### **Result of the Tender Procedure, Announcement of the Result and Public Availability of Tenders**

**Article 62** (1) The Media Council shall establish through a regulatory decision

a) the success or the failure of the tender procedure, and

b) the winner of the tender procedure in the case of a successful procedure.

(2) The tender procedure shall be unsuccessful if all submitted tenders are invalid in terms of form

or content.

(3) Only such a tenderer may be declared winner that have consistently complied with the participation requirements laid down in this Act and in the invitation to tender from the date of the submission of the tender. In case of tenders on local media services, if only one tenderer meets the statutory requirements or the requirements of the tender, the Media Council determines the winner of the tender in line with Point b) of Paragraph (1).

(4) The Media Council shall publish its decision as per Paragraph (1) in the same place and in the same manner as the invitation to tender.

(5) A review of the Media Council's decision as per Paragraph (1) may be requested from the Budapest Administrative and Labour Court by the client and by any other participant in the proceeding as regards the provisions expressly applicable to him/her, within fifteen days of the decision's announcement, on the grounds of breach of law.

(6) The Media Council shall forward the statement of claim, together with the documents and representations of the case, to the Budapest Administrative and Labour Court within fifteen days of receipt thereof. The court shall assess the statement of claim for a judicial review within sixty days from the submission of the statement of claim by the Media Council to the court and shall put down its decision in writing until the day of its announcement. No appeal may be lodged against the decision of the court and no retrial can be requested. The petition for review of the decision can be lodged within fifteen days from announcement of the decision, with the provision that the petition for review must be actually received by the Budapest Administrative and Labour Court within the time limit set for filing. If this deadline (limitation period) is missed, no petition for excuse will be accepted. The Curia shall assess the petition for review within sixty days and shall put down its decision in writing within this deadline. The Budapest Administrative and Labour Court and the Curia shall hold an accelerated procedure.

(7) The tender shall qualify as a secret protected by law as defined under Paragraph (2) of Article 153, right until the completion of the tender procedure. The tender shall be handled by the Media Council within the document folder separately, as restricted data. The Media Council shall not disclose any information concerning the data contained in the tenders to third parties until the contract is concluded.

(8) Eighty percent of the tender fee shall be reimbursed in the case of tenders which are valid in terms of form and content, but which have not been declared winner.

## Public Contract

**Article 63** (1) Simultaneously with notifying the winning tenderer about the decision as per Article 62 (1) (b), the Media Council shall, ex officio, launch a regulatory procedure for the purpose of concluding a public contract with the winner of the tender procedure. The administrative deadline of such regulatory procedure shall be forty-five days.

(2) If the winning tenderer does not participate in the regulatory procedure specified under Paragraph (1), or if the winning tenderer hinders the conclusion of the public contract, the public contract may not be concluded beyond the administrative deadline defined under Paragraph (1). In such cases, the Media Council shall terminate the procedure on the forty-fifth day from the starting date of the procedure. No petition for excuse may be lodged in the procedure.

(3) *[not in effect]*

(4) If the procedure of the Budapest Administrative and Labour Court has been requested according to Article 62 (5), the public contract may not be concluded until the final and binding decision of the Budapest Administrative and Labour Court. The duration of the review procedure of the Budapest Administrative and Labour Court shall not be included in the administrative deadline of the regulatory procedure.

(5) The Media Council may, pursuant to Article 187, impose fines if the winning tenderer withdraws its tender or does not conclude the public contract.

(6) The Media Council may, in addition to imposing a fine, also oblige the winning tenderer to bear and pay all the costs arising from the withdrawal of the tender or from hindering the conclusion of the public contract.

(7) The conditions pertaining to the production, safekeeping, availability and disclosure of the information required for verifying the fulfilment of the media service provider's obligations must be determined in the public contract.

(8) If the media service is not provided by the deadline specified in the public contract – due to reasons within the tenderer's reasonable control – the Media Council may, in addition to enforcing the legal sanctions determined in the public contract, terminate the public contract with immediate effect.

(9) The media service provider shall pay the media service provision fee defined in the public contract in advance on a quarterly basis. Upon obtaining the media service provision right, the media service provision fee shall be paid in advance for the following half year.

(10) If the media service provider is in default with the payment of or fails to pay any portion of the media service provision fee, the Media Council may, in addition to enforcing the legal sanctions determined in the public contract, terminate the public contract with a fifteen-day notice period.

(11) The consequences of breach of contract must be defined in the public contract.

(12) The media service provider shall be entitled and obliged to broadcast the programme flow meeting the requirements specified under the public contract, via its own network maintained by it, using its own equipment and instruments or using an electronic communications service provider (broadcasting service). No telecommunication license is required for the media service provider's broadcasting or distribution activity using own equipment. This, however, does not affect the obligations of the media service provider to acquire other permits and licenses required by legislation.

(13) The original applicant as per Article 49 (8) may claim from the winner of the tender the reimbursement of the justified expenses incurred in relation to data disclosure and planning.

(14) The media service provider shall report to the Media Council within five days any changes taking place to its ownership structure or its data indicated in the public contract.

### **Connecting to a Network, Expansion of the Reception Area, Amendment of the Agreement**

**Article 64** (1) The Media Council shall decide on connecting to a network based on the joint request of those connecting to the network, within the framework of a regulatory procedure. If the permission is granted, the Media Council shall amend the public contract of the media service providers.

(2) Community media service providers may only connect to a network with other community media service providers. National media service providers shall not be allowed to connect to a network.

(3) Connecting to a network shall not be allowed if

a) the length of the regional or local media service provider's own media service does not reach the daily threshold of four hours,

b) any of the media service providers owe overdue media service provision fees to the Media Council,

c) as a result of connecting to the network, any of the media service providers would not meet the conditions laid down in Article 71,

d) the reception area of the networked media service provider and the media service provider connecting to the network overlaps in excess of twenty percent,



e) as a result of connecting to the network, the media service provider would depart from its original commitments made in its tender.

(4) The Media Council shall adopt its decision about expansion of the reception area, within the framework of a regulatory procedure, initiated at request. If the permission is granted, the Media Council shall amend the public contract of the media service provider.

(5) The condition for permitting the expansion of the reception area shall be that the reception areas of the media service provider's rights of similar nature are situated at a distance of at most forty kilometres from each other.

(6) Expansion of the reception area shall not be permitted

a) if the media service provider owes overdue media service provision fees to the Media Council,

b) if, as a result of expansion of the reception area, the media service provider would not meet the conditions laid down in Article 71.

(7) No new rights shall be created through the expansion of the reception area. The validity period of the expanded reception area right shall remain unchanged, with the full right remaining in force until the expiry of the extended basic right. The media service provider shall broadcast the same programme flow over the entire reception area throughout the entire transmission time.

(8) If the media service provider's reception area increases from local to regional or from regional to national as a result of an increase in the population reached with the media service distribution system, or as a result of connecting to a network, or as a result of the reception area expansion, the Media Council shall amend the public contract on condition that the media service provider satisfies the requirements applicable to the media service with the increased reception area, as defined under this Act.

(9) At the media service provider's request, the Media Council may – based on media market and media policy considerations, and with due regard to essential public interests – offer, in place of the existing media service provision right, another media service provision right registered in the register of media service facilities under similar terms and conditions, with regard to the frequency band and the frequency, without inviting tenders. Such amendment shall not affect the term of the media service provision right.

### Temporary Media Services

**Article 65** (1) Upon request, the Media Council may – taking into consideration media market and media policy considerations – conclude provisional public contracts for a period of at most thirty days for the utilization of such local media service facilities

a) the frequency plan of which has been published by the Office as per Article 49 (5), but for which no public contract has been concluded yet,

b) *[not in effect]*

c) regarding which the Authority certifies that the media service may be pursued without disturbing others and without violating international requirements.

(2) The applications shall include:

a) the name, address, registered office, telephone number of the applicant,

b) the effective Deed of Foundation of the applicant undertaking,

c) the purpose of the proposed temporary media service,

d) the planned transmission time broken down by day, week or month,

e) the programme flow plan,

f) the starting and ending date of the proposed temporary media service,

g) *[not in effect]*

h) the description of the media service facility or in case of Paragraph (1) (c) the place of business of the proposed temporary media service.

(3) Applications shall be evaluated within twenty days of their submission. If the application does not meet the conditions set forth under Paragraph (2), the Media Council shall call on the applicant to remedy the deficiencies. Applicants shall have five days from the date of delivery to remedy the deficiencies. The deadline set for remedying deficiencies represents a limitation period; if it is not met, the Media Council shall reject the application. The Media Council shall reject the application without examining it on the merits if at least thirty days have not passed between the date of submission of the application and the start date of the proposed temporary media service.

(4) If several applications are submitted regarding a media service facility, the Media Council shall evaluate the applications in the order they were received. If the Media Council concludes a public contract based on an application received earlier, the provisions of Paragraph (5) shall be applied regarding the evaluation of applications received later, and applicants shall be called upon to amend the dates under Paragraph (2) (f), if necessary.

(5) A provisional public contract may be concluded

a) once a year with the same undertaking,

b) three times a year in the same public administration area. A period of at least fifteen days shall elapse between the terms of two provisional public contracts.

(6) The media service provider authorised to provide temporary media services may not initiate connection to a network with another media service provider, nor the expansion of its reception area.

(7) The community media service provider shall not be required to pay a media service provision fee based on the provisional public contract.

(8) The requirements defined under Article 71 shall not be taken into account when applying Paragraphs (1)-(7).

(9) The temporary media service provision period specified under Paragraph (1) may not be extended.

(10) If the audiovisual media service provision right expires between 1 January 2010 and the target date set in Article 38 (1) of the Digital Switchover Act in a way that it cannot be renewed pursuant to Article 48 (5), the Media Council may conclude a provisional public contract at the media service provider's request concerning the media service provision right, until the deadline defined in legislation as the target date of digital switchover of media service distribution provided by audiovisual media service providers.

(11) If the linear radio media service provision right expires after having been renewed on one occasion by the Media Council, and the tender procedure for the given media service facility has already been started, the Media Council shall have the right to conclude a provisional public contract with the media service provider formerly holding the right, even on several occasions, at the request of such media service provider, for a term of sixty days at most. The provisional public contract based on this Paragraph can only be concluded until the completion of the tender procedure or until the judicial review procedure is terminated in a final and binding manner, if a judicial review procedure was started against the decision adopted on the merits of the tender procedure or against the order terminating the tender procedure. The provisional public contract shall be terminated as of the day when the public contract is concluded with the winner of the tender procedure.

(12) When applying Paragraphs (10)-(11), Paragraphs (1)-(5) and Paragraph (9) shall not be applied.

(13) For the purposes of Paragraphs (10)-(11), the Media Council may conclude a provisional public contract, if the media service provider has no overdue debts toward the Media Council and certifies, on the day of conclusion of the contract at the latest, the payment of the media service provision fee payable for the entire period – in case of audiovisual media services, for six months – of the provisional right.

## Chapter IV

## COMMUNITY MEDIA SERVICES

### **Article 66** (1) Linear community media services

a) are intended to serve or satisfy the special needs for information of and to provide access to cultural programmes for a certain social, national, cultural or religious community or group, or

b) are intended to serve or satisfy the special needs for information of and to provide access to cultural programmes for residents of a given settlement, region or reception area, or

c) in the majority of their transmission time such programmes are broadcasted which are aimed at achieving the objectives of public media services as defined in Article 83.

(2) The media service provider providing linear community media services shall define in its media service policy

a) the objective of its activity,

b) the cultural areas and topics which it has undertaken to present,

c) the objectives of public media services which it has undertaken to serve,

d) the community or communities (social groups or residents of a specific geographic area) that it intends to serve,

e) if it serves the needs of a specific community as per Paragraph (1) (a)-(b), then such community and the minimum percentage ratio of the programmes targeted at such community as compared to the total transmission time shall be defined.

(3) The media service provider shall report annually to the Media Council on compliance with the applicable legislative provisions governing community media services and with the media service policy.

(4) Linear community media service shall

a) provide information about social or local community news regularly, and perform other news services,

b) broadcast cultural programmes,

c) strive to take into consideration the needs of persons with impaired hearing, in the case of audiovisual media services,

d) operate, in the case of audiovisual media services, in line with the requirements of Article 20 pertaining to Hungarian and European programme quotas, without applying the exemption opportunity specified under Paragraph (2) of Article 22, excluding any possible exemptions regarding programme quotas, as per Paragraph (2) of Article 22, applicable to independent production companies,

e) have at least four hours of daily transmission time allocated to it,

f) broadcast weekly at least four hours of programmes aired for the first time (not reruns) prepared and edited by it during the given calendar year,

g) broadcast programmes serving public service objectives set forth in Article 83 in over two-thirds of its weekly transmission time, including the news programme, political programme and cultural programme aimed at the community served by it, as well as other similar programmes not primarily aimed at the community in question,

h) allocate, in the case of radio media services, at least fifty percent of its weekly transmission time committed to programmes presenting musical works to the presentation of Hungarian musical works.

(5) The recognition of local or regional media services as community media services shall be established through the Media Council's decision, adopted within the framework of the tender procedure started by the Media Council pursuant to this Act regarding the usage of the media service provision rights, on the winner of the media service tender or under the Media Council's procedure initiated specifically for this purpose, based on the Media Council's decision. This procedure may be initiated by the media service provider following the registration of the media service in the register in accordance with the provisions of Article 42. In the course of its procedure, the Media Council shall

examine whether the existing or proposed media service and the provisions of its respective media service policy satisfy the criteria laid down under Paragraphs (1)-(4), and issue a regulatory decision within sixty days. National media services may not be recognised as community media services.

(6) Following recognition as per Paragraph (5), the Media Council shall, *ex officio*, examine the operation of the media service provider in depth, over a period of at least seven days of service, at least every two years – and also following the first year in the case of new services –, and for that purpose the media service provider shall disclose detailed data regarding the programmes broadcasted by it and the contents of the media service. If, in the opinion of the Media Council, the media service examined does not meet the criteria of linear community media services, the Media Council shall, through a decision passed by it, withdraw recognition as community media service.

(7) In case a decision on the refusal or withdrawal of the recognition as a community media service is adopted, the media service provider may not initiate the proceeding under Paragraph (5) within six months of communication of the decision on the refusal or withdrawal.

## Chapter V

### PREVENTING MARKET CONCENTRATION AND MEDIA SERVICE PROVIDERS WITH SIGNIFICANT MARKET POWER

#### General Rules on the Prevention of Media Market Concentration

**Article 67** The market concentration of media service providers providing linear media services may be limited within the framework of this Act in order to maintain the diversity of the media market and to prevent the formation of information monopolies.

**Article 68** (1) Linear audiovisual media service providers with an average annual audience share of at least thirty-five percent, linear radio media service providers, and media service providers having a joint average annual audience share of at least forty percent on the linear audiovisual and linear radio markets, any owners of the media service provider and any person or undertaking having a qualifying holding in the media service provider's owner

a) may not launch new media services, may not acquire shares in undertakings providing media services, and

b) shall take measures in order to increase the diversity of the media market by modifying the programme flow structure of its media services, by increasing the proportion of Hungarian works and programmes prepared by independent production companies, or in any other way.

(2) In the case presented under Paragraph (1) (a), if the media service provider affected by the rule restricting media market concentration wishes to acquire a share in an undertaking providing media services, the Media Council shall be obliged to reject the special authority approval under its procedure as per Article 171.

(3) In the case presented under Paragraph (1) (b), in order to determine the measures aimed at increasing diversity, the Media Council may conclude a public contract – for a term of at least one year – with the media service provider, at the media service provider's request, and under such procedure the Media Council shall be entitled to assess whether it accepts the obligations the media service provider wishes to undertake or not. Such applications may be submitted within thirty days from the communication of the Media Council's regulatory decision as per Article 70 (7). If the public contract – due to failure to reach an understanding – is not concluded within three months from the communication of the regulatory decision specified in Article 70 (7), the Media Council shall terminate the procedure by a decision.

(4) In the absence of the conclusion of a public contract specified under Paragraph (3), the media service provider shall submit its application for the approval of its measures aimed at increasing media market diversity, within six months of the communication of the Media Council's regulatory

decision specified in Article 70 (7). In its procedure conducted regarding the approval of the application, the Media Council shall assess whether the proposed measures are suitable for decreasing the former information monopoly and for increasing media market diversity and information pluralism. In the event of the late fulfilment of such obligation, the Media Council shall impose a procedural fine.

(5) If the application complies with the conditions specified under Paragraph (4), the Media Council shall approve it by its decision.

(6) In case of any doubt, it is the media service provider's responsibility to prove that the proposed measures comply with the conditions specified under Paragraph (4).

(7) If the Media Council does not approve the proposed measures, it shall adopt a decision wherein it shall identify the causes of non-compliance, as far as the principles specified under Paragraph (4) are concerned.

(8) In the case presented under Paragraph (7), the media service provider shall submit a new plan for proposed measures by the deadline set by the Media Council, but, within thirty days at most, taking into account the considerations specified in the Media Council's decision as per Paragraph (7). In the event of the late fulfilment of such obligation, the Media Council shall impose a procedural fine. If the measures specified in the new application also fail to satisfy the criteria defined under Paragraph (4), the Media Council may enforce the respective legal sanctions in accordance with Articles 185-187.

(9) The Media Council shall supervise the implementation of the measures approved through its decision within the framework of general regulatory supervision.

(10) The average annual audience share jointly reached on the linear audiovisual and linear radio market shall, for the purposes of Paragraph (1), be determined by adding the individual average annual audience shares, expressed as a percentage, attained separately on the linear audiovisual and linear radio markets.

### **Identifying Media Service Providers with Significant Market Power**

**Article 69** (1) Linear audiovisual media service providers and linear radio media service providers with an average annual audience share of at least fifteen percent shall qualify as media service providers with significant market power, provided that the average annual audience share of at least one their media service reaches three percent.

(2) The Media Council shall regularly monitor the fulfilment of the obligations prescribed for media service providers with significant market power under Article 32 and Articles 38-39.

(3) The Authority may conclude an agreement with an external contractor for measuring the average annual audience share defined in Article 68 and Paragraph (1). The contracting party shall be selected in an open tender procedure. When preparing the agreement and determining the tender result, the Authority shall cooperate with the media service providers. The agreement shall define the method for measuring audience share, the professional criteria thereof, and the procedure for auditing the results.

(4) The Authority shall publish on its website the methodology used for measuring audience share and the average annual audience share of media services for the previous calendar year.

### **Rules of Procedures Aimed at Preventing Media Market Concentration and Identifying Media Service Providers with Significant Market Power**

**Article 70** (1) For the purposes of the procedures aimed at the prevention of media market concentration and at identifying media service providers with significant market power, the Media Council shall examine market facts and circumstances important (hereinafter as: relevant) for the



assessment of the level of concentration, in particular the media service provider's average annual audience share for the previous calendar year, under the regulatory inspection as per the Act on the General Rules of Administrative Proceedings and Services, with the deviations defined under Paragraphs (2)-(6).

(2) In order to clarify the relevant facts and circumstances, the Media Council may require the media service providers to provide data in the course of its regulatory inspection, by way of an order. No independent legal remedy shall be available against the order; the order may be challenged in a legal remedy procedure brought against the decision on the merits made in a procedure that may follow the regulatory inspection and is aimed at the prevention of media market concentration and at identifying media service providers with significant market power.

(3) In the event of failure to provide data or upon inadequate provision of data, the Media Council may, pursuant to Article 175 (8), impose a procedural fine. Over and above the fine, if the data are not provided or if data are provided inadequately, the Media Council shall be entitled to, and in case of a repeated breach of law, shall be obliged to impose a fine ranging from fifty thousand forints to three million forints on the officer or registered representative, as per Article 45 (1) (ad), of the media service provider found in breach of the law.

(4) The following shall be taken into account when determining audience share, or added to the audience share

a) the audience share of all linear media services distributed by the media service provider on the territory of Hungary,

b) the audience share of the linear media services distributed on the territory of Hungary by media service providers in whom the affected media service provider has a qualifying holding, and

c) the audience share of linear media services distributed on the territory of Hungary by a media service provider in whom any owner of the affected media service provider, or the owner of the owner thereof has a qualifying holding.

(5) If, based on the regulatory inspection, the Media Council established that there is a circumstance providing grounds for conducting a procedure aimed at the prevention of media market concentration and at identifying media service providers with significant market power, then, notwithstanding the relevant provisions of the Act on the General Rules of Administrative Proceedings and Services, it shall only decide to launch the procedure in an order.

(6) No procedure shall be launched by the Media Council if it establishes on the basis of the regulatory inspection that neither the media service provider affected by the rules restricting media market concentration identified in the decision made earlier as per Paragraph (7), nor the group of media service providers with significant market power identified in the decision as per Paragraph (7) or in the public contract as per Paragraph (10) have changed.

(7) In the procedure aimed at the prevention of media market concentration and at identifying media service providers with significant market power, the Media Council shall identify the media service provider affected by the rules restricting media market concentration as per Article 68 or the media service provider with significant market power as per Article 69 in a regulatory decision, and shall decide on the termination of such status determined in its earlier decision.

(8) In its decision made within the framework of a procedure aimed at identifying media service providers with significant market power, the Media Council shall also define the exact contents of the obligations imposed on the media service provider with significant market power pursuant to Article 32 and Articles 38-39, taking into account the assessment criteria defined therein.

(9) A review of the Media Council's decision made within the framework of the procedure aimed at the prevention of media market concentration and at identifying media service providers with significant market power may be requested from the Budapest Administrative and Labour Court by the client and by any other participant in the proceeding as regards the provisions expressly applicable to him/her, within fifteen days of the decision's announcement, on the grounds of breach of law.

(9a) The Media Council shall forward the statement of claim, together with the documents and representations of the case, to the Budapest Administrative and Labour Court within fifteen days of receipt thereof. The court shall assess the statement of claim for a judicial review within sixty days from the submission of the statement of claim by the Media Council to the court and shall put down its decision in writing until the day of its announcement. No appeal may be lodged against the decision of the court and no retrial can be requested. The petition for review of the decision can be lodged within fifteen days from announcement of the decision, with the provision that the petition for review must be actually received by the Budapest Administrative and Labour Court within the time limit set for filing. If this deadline (limitation period) is missed, no petition for excuse will be accepted. The Curia shall assess the petition for review within sixty days and shall put down its decision in writing within this deadline. The Budapest Administrative and Labour Court and the Curia shall hold an accelerated procedure. The court shall have the right to change the decision of the Media Council.

(10) In the procedure aimed at identifying media service providers with significant market power, the Media Council, rather than issuing a decision, may also conclude a public contract with the media service provider in order to identify whether the media service provider has significant market power and to define the exact contents of the obligations imposed on the media service provider with significant market power pursuant to Article 32 and Articles 38-39. In such case, the parties may depart from the assessment criteria for determining the obligations specified in Article 32 and Articles 38-39 with the provision that the media service provider with significant market power may not be exempted, not even in the public contract, from its obligations defined therein.

(11) The Media Council shall conduct its procedure aimed at the prevention of media market concentration and at identifying media service providers with significant market power, with the deviations determined under Paragraph (6), by 30 September each year. When identifying media service providers with significant market power, their average audience share during the previous calendar year shall be taken into account. Media service providers with significant market power shall fulfil their obligations from 1 January of the year following the Media Council's decision. The Media Council's decision made within the framework of the procedure aimed at the prevention of media market concentration and at identifying media service providers with significant market power and also the public contract concluded shall remain in force until the entry into force of the subsequent decision made, or public contract concluded on the same subject as a result of a procedure conducted in the following year.

(12) For the purposes of Paragraphs (1)-(11), sales revenue shall mean the net sales revenue achieved by the participant of the procedure through sales relating to media service activities in the course of the previous business year.

### **Rules Governing Media Service Providers of Analogue Linear Radio Media Services Acquiring Media Service Provision Rights by Virtue of a Public Contract or Broadcasting Agreement**

**Article 71** (1) Those authorised to provide analogue linear radio media services based on a public contract or broadcasting agreement shall have the right to simultaneously provide

- a) maximum one national analogue linear radio media service,
- b) maximum two regional and four local analogue linear radio media services, or
- c) maximum twelve local analogue linear radio media services.

(2) With the exception of thematic analogue linear radio media services, providers authorised to provide national analogue linear radio media services and those having a qualifying holding therein may not acquire a qualifying holding in undertakings providing or distributing other media services.

(3) The same undertaking may only acquire a qualifying holding in organisations authorised to

provide analogue linear radio media services within the limits defined under Paragraph (1).

(4) The media service provider's own rights and the rights of the undertakings in which it has a qualifying holding shall be taken into account jointly for the purposes of Paragraphs (1) and (3).

(5) A regional or local linear radio media service provider or its owner may not, with the exceptions defined under Paragraph (6), acquire a qualifying holding in other undertakings providing regional or local linear radio media services falling within the reception area of their media services, and the regional or local linear radio media service provider or its owner may not provide another regional or local linear radio media service falling within the reception area of their media services.

(6) The restriction defined under Paragraph (5) shall not be applied if

a) the reception areas of the two media service providers overlap up to twenty percent at most, or  
b) unused transmission time remains following the evaluation of the tender and, parallel to an invitation being issued to a new tender, an agreement is concluded with the media service provider defined under Paragraph (5) in respect of the unused transmission time, provided that the transmission time thereby acquired by it differs from its existing transmission time by eighty percent, and neither transmission time exceeds four hours.

(7) Concentration of companies as per the Act on the Prohibition of Unfair and Restrictive Market Practices shall not be permitted if such were prejudicial to this Act.

## Chapter VI

### PROTECTION OF DIVERSITY IN MEDIA SERVICE DISTRIBUTION

#### **Diversity in Media Service Distribution**

**Article 72** (1) The number of media services in the media service providers of which the same undertaking has a qualifying holding shall not exceed one quarter of the audiovisual media services or half the radio media services distributed on the given transmission system.

(2) The number of media services the providers of which also perform media service distribution activities or in the providers of which the same media service distributor undertaking has an ownership stake shall not exceed one quarter of the audiovisual media services or half the radio media services broadcasted on the given transmission system.

(3) The ratios defined under Paragraphs (1)-(2) shall also apply to the programme package, offered by the media service distributor undertaking to viewers or listeners, which had the highest number of subscribers at the end of the previous calendar year in the given transmission system.

(4) The obligations defined under Paragraphs (1)-(3) shall not apply to media service distribution activities carried out by the public media service provider.

#### **“Must carry” Obligation regarding Media Services**

**Article 73** (1) In order to preserve, protect and further develop Hungarian and European culture and the culture of nationalities, support and sustain the languages of nationalities, satisfy the information needs of citizens and facilitate their participation in democratic public affairs and preserve diversity of opinions, the media service distributor defined under Paragraphs (2)-(3) shall be subject to the obligations defined in Articles 74-75 (hereinafter as: “must carry” obligation).

(2) Media service distributors distributing media services on a transmission system or network used for broadcasting radio and audiovisual media services to the public shall be subject to a “must carry” obligation.

(3) Transmission systems or networks used for broadcasting radio and audiovisual media services to the public include, in particular, cable television networks, satellite and terrestrial media service distribution networks (with the exception of analogue audiovisual broadcasting networks), as well as

transmission systems allowing for transmission of media services by use of Internet Protocol, if the nature and conditions of the service are identical to those of media service distribution, or if this substitutes the media service distribution carried out by any other means.

(4) The “must carry” obligation shall also extend to service providers and operators distributing media services on other transmission systems or networks, if this transmission system or network is the one which is widely used by subscribers and users as the main instrument for receiving radio and audiovisual media services. The Media Council shall monitor such transmission systems or networks regularly, but at least every three years, as far as compliance with the “must carry” obligation is concerned, and shall perform their analysis within the framework of such monitoring. If, in the course of the regulatory procedure launched, if necessary, as a result of such monitoring, the Media Council establishes that it is reasonable to impose a “must carry” obligation in respect of the given transmission system or network, then it shall, in its decision, establish such “must carry” obligation in respect of all service providers and operators distributing media services on the given transmission system or network.

(5) *[not in effect]*

(6) If the media service distributor simultaneously provides media service distribution on several transmission systems, media service distribution networks, or media service distribution transmission platforms, the “must carry” obligation as per Paragraphs (1)-(4) shall apply to the media service distributor for each transmission system, media service distribution network or media service distribution transmission platform separately, except if the media service distributor provides a unified, complex programme package, containing several media service distribution transmission platforms. Where a unified, complex programme package containing several media service distribution transmission platforms is provided, the “must carry” obligation shall apply to the media service distributor separately for each programme package.

(7) A media service distributor shall qualify as influential from a media market perspective (hereinafter as: influential media service distributor) if

a) the number of subscribers to its media service distribution, irrespective of the media service distribution platform or network used, exceeds one hundred thousand, or

b) in case of publicly accessible media service distribution available without payment of a subscription fee, the reception area of the media service distributor covers more than one-third of the population of Hungary,

and the sales revenue of the media service distributor or any undertaking having a qualifying holding in it or in its owner, or of any other undertaking operating under the qualifying holding of the media service distributor or its owner, arising from media service distribution or related services, with the exception of analogue broadcasting transmission, performed in the territory of Hungary, exceeds one billion forints annually.

(8) In case of any doubt, the influential media service distributor shall be obliged to prove that the conditions defined under Paragraph (7) do not prevail.

**Article 74** (1) The media service distributor shall be obliged to transmit a total of four linear audiovisual media services and three linear radio media services of the public media service provider free of charge, with the exception of media service distribution performed by means of broadcasting transmission. The media service distributor may not claim an additional fee from subscribers in excess of the costs of access related to ensuring access to such media services. The public media service provider shall not claim consideration from the media service distributor for the distribution of its media services.

(1a) The media service distributor defined in Article 73 (2), operating a digital transmission system, shall be obliged to transmit, in addition to the linear audiovisual media services specified in Paragraph (1), two further linear audiovisual media services of the public media service provider, under the terms specified in Paragraph (1).

(1b) The media service distributor defined in Article 73 (2) that also transmits audiovisual media services in HD quality on the given transmission system shall be obliged to transmit on that transmission system the public media service provider's audiovisual media services defined in Paragraphs (1) and (1a) in HD quality, under the terms specified in Paragraph (1).

(1c) The media service distributor defined in Article 73 (2) shall be obliged to set the audiovisual media services defined in Article 74 (1)-(1c) on the first places of the channel order, as a default.

(2) The media service distributor shall transmit the public media services defined in Paragraph (1) and falling under the scope of the "must carry" obligation as a basic service in such a manner that these services, with the exception of analogue media service distribution networks, may also be available to subscribers as a separated subscription service. The media service distributor may not claim an additional fee for the use of such subscription service packages from subscribers in excess of the costs of access related to ensuring access to such media services. In case of analogue media service distribution networks, all public media services falling under the scope of the "must carry" obligation shall be made available to subscribers in all programme packages.

(3) The public media service provider shall make its media services as per Paragraph (1), distributed using broadcasting transmission, available to subscribers free of charge.

(4) The Office shall monitor due performance of the provisions defined under Paragraphs (1)-(3) ex officio or upon request.

(5) The media service distributor providing media service distribution through terrestrial broadcasting with a local or regional reception area shall not be subject to the "must carry" obligation as per Paragraphs (1)-(3) with regards to their above mentioned activity.

**Article 75** (1) The media service distributor shall, up to ten percent of its total capacity but in respect of three media services at most, be subject to an obligation to contract regarding the technically and economically founded contract offers made by the media service providers regarding the provision of their regional or local audiovisual community media services.

(2) The media service distributor shall – in respect of no more than two further media services – be subject to an obligation to contract, regarding the technically and economically founded contract offers made by the media service provider with a local reception area, regarding the provision of its audiovisual media service, provided that, based on the data in the register of the Authority, the reception area of the given media service provider falls within the given media service distributor's reception area or within the separate service area as per Paragraph (4), and that it provides its media service specifically for the given area's population. Pursuant to Paragraphs (1)-(2), the media service distributors performing their services via satellite or terrestrial broadcasting networks shall not be subject to the "must carry" obligation in respect of the local media services subject to the "must carry" obligation.

(3) Over and above the media services falling under the "must carry" obligation defined under Article 74 (1) and Paragraphs (1)-(2), the Media Council may, ex officio or upon the media service provider's request, define in a regulatory decision no more than two additional linear public media services or one linear community media service, serving the media policy objectives of public interest laid down in this Act, in respect of which the media service distributor has an obligation to contract according to a technically and economically founded contract offer. When passing its decision, the Media Council shall assess the extent by which the decision contributes to the diversity of the media market and information, to the achievement of the public service objectives defined in this Act and to the preservation and improvement of culture. Media service distributors shall not have the legal status of a client in such regulatory procedures.

(4) If the transmission system of the media service distributor, as per Paragraphs (1)-(3), consists of parts serving several areas that can be technically distinguished from each other, the media service distributor shall be subject to the obligations, as per Paragraphs (1)-(3) *mutatis mutandis*, in respect of each technically distinguishable area separately. As far as the "must carry" obligation is concerned,



technically distinguishable area shall mean the geographical area served by those parts of the transmission system within which no other media service can be installed into or removed from the transmitted complex programme signal under economically or technically reasonable conditions, in other words within such an area all users choosing the same programme package shall have access to an identical programme structure.

(5) For the purposes of Paragraphs (1)-(2) and (7), the media service provider shall be considered as being entitled to be the beneficiary of the “must carry” obligation in respect of that media service provided by it

a) in respect of which it requests the media service distributor to distribute the media service, and

b) in respect of which it proceeded in good faith and in line with the requirements of fairness in the course of the contract offer procedure and the negotiations held to prepare the conclusion of the contract, and it negotiated on the merits regarding the responses, statements and requests for information given to the media service distributor in connection with the contract offer of the media service provider, in order to bring about the conclusion of the contract.

For the purposes of Paragraph (3), the Media Council may appoint only linear community media services provided by media service providers other than those providing linear community media services under Paragraphs (1)-(2).

(6) For the purposes of Paragraphs (1)-(4), neither the media service distributor’s information channel nor such media service shall be taken into account in the provider of which, or in the owner of the provider of which the media service distributor undertaking or its owner has a qualifying holding.

(7) The influential media service distributor shall have an obligation to contract in respect of three further linear community audiovisual media services at most in addition to those defined under Paragraphs (1)-(3), according to the technically and economically founded contract offers made by the media service providers for distributing their audiovisual community media services.

(8) The obligation to contract must be performed according to the order of the offers. The order of the contract offers, as far as the performance of the obligation to contract is concerned, shall be determined on the basis of the day when the written contract offer regarding the distribution of the media service was received (in an evidenced manner) by the media service distributor, or on the basis of the day when the media service distributor obtained knowledge (in an evidenced manner) of the verbally communicated contract offer. The fact of receipt of the offer by the media service distributor or of obtaining knowledge of the offer by the media service distributor shall be evidenced, verified in case of any doubt, by the media service distributor. If, in the course of joint fulfilment of the “must carry” obligation specified under Paragraphs (1) and (2) or on the basis of the “must carry” obligation specified under Paragraph (7), the media service distributor is only obliged to transmit one authorised media service provider but several authorised media service providers simultaneously also require transmission, the media service distributor shall be obliged to assess the authorised media service providers’ contract offers, impartially and based on objective criteria, under a public and transparent procedure.

(9) Offers may be rejected on objective technical grounds if the service requirement indicated in the offer jeopardises the safety of operation or the unity of the network.

(10) Offers may be rejected on objective economic grounds if the service claim indicated in the offer jeopardises the operation of the media service distributor and thereby the agreement is impossible.

(11) In case of any doubt, the media service distributor shall be responsible to prove that transmission of the programme flow is either economically or technically unfounded.

(12) The Media Council shall notify the affected media service providers about the launch of the regulatory procedure as per Paragraph (3) in an order. Such notification shall only contain the subject-matter of the case and a brief description thereof. The Media Council shall publish such notifications through public notices. In the course of such a regulatory procedure only clients

participating in the procedure shall be entitled to exercise the respective client rights. The Media Council shall announce its regulatory decision issued in the course of this procedure through public notices.

(13) Taking into account the assessment criteria defined under Paragraph (3), the Media Council may amend its regulatory decision as per Paragraph (3) if this is justified by a substantial change in circumstances. The provisions of Paragraph (12) shall apply to the communication of the amended decision.

(14) The submission of a statement of claim within the framework of the judicial review of the regulatory decision specified under Paragraphs (3) and (13) shall not have a suspensive effect on the enforcement of the decision, and the court shall not suspend the enforcement of the regulatory decision challenged by the statement of claim. The decision shall be enforceable immediately, irrespective of the filing of the statement of claim.

(15) The Media Council may, ex officio or on the basis of a complaint specified in Article 145, may monitor the due application and performance by the media service distributor of the provisions laid down in Paragraphs (1)-(11) within the framework of general regulatory supervision.

(16) If the Media Council concludes, as the result of the regulatory inspection, that the media service distributor had violated the provisions laid down in Paragraphs (1)-(11) and the violation may be rectified by termination of the violating behaviour or by restoring the lawful situation – without completing another regulatory procedure, the Media Council shall notify the media service distributor about the violation of law and shall, in the form of an order, oblige the media service distributor to terminate such violation by setting a deadline of at least twenty days for compliance and including a warning on the consequences of failure to comply.

(17) If the deadline set in the notification mentioned in Paragraph (16) expires without result or if the provisions contained in Paragraph (16) cannot be applied, the Media Council shall ex officio launch the proceeding falling within its own competence.

(18) The contents and framework of the “must carry” obligation of the public media service designated according to Paragraph (3) by the regulatory decision of Media Council, as well as the respective rights and obligations shall remain unaffected even if the number of “must carry” public media services specified in Article 74 (1) are reduced subsequent to the decision on the designation as per Paragraph (3) became final.

**Article 76** (1) The media service provider shall be entitled to initiate the legal dispute procedure as per Articles 172-174 if

a) none of the agreements, as per Paragraphs (1)-(3) and (7) of Article 75, is concluded within thirty days of the offer being made, despite the media service provider’s attempts to reconcile with the opposing positions on the merits, or

b) the media service distributor violates the authorised media service provider’s media service distribution right or legitimate interest set forth by law or an agreement.

(2) If the media service provider requests the Media Council to bring the contract into existence or determine its content, under a legal dispute procedure, in the absence of an agreement regarding the content of the contract, in line with the provisions of Article 172 (3), the Media Council, in the course of exercising its powers, shall have the right to determine the content of the contract, provided that the application is substantiated, only in the following manner:

a) the media service is also distributed in the subscription service or programme package of the media service distributor providing the largest access,

b) the media service distributor shall not have the right to receive any consideration (including the fee for the installation of the reception of the programme distribution) for the transmission of the media services as per Paragraphs (1)-(3) and (7) of Article 75, and the media service provider shall not have the right to receive a programme fee,

c) the term of the contract concluded in terms of the distribution of the media service shall be one

year, with the proviso that if neither party notifies the other contracting party, in writing, of its intention to discontinue the contract at least 90 days in advance of the expiry of the term of the contract, the term of the contract shall be automatically extended by one year, on one occasion, under unchanged contractual conditions.

**Article 77** (1) The media service distributor shall send to the Office all agreements concluded with media service providers within the framework of its “must carry” obligation defined in this Chapter, as well as the amendments thereto, within thirty days from their conclusion or amendment, and shall notify the Office of the termination of such agreements within thirty days following the date of termination.

(2) The media service distributors and media service providers shall provide data upon the Authority’s request in connection with the “must carry” obligation regulated in this Chapter.

### **Obligation to Offer Media Services**

**Article 78** (1) Media service providers with significant market power and media service providers in which or in the owner of which an influential media service distributor or the owner thereof has a qualifying holding (for the purposes of Articles 78-81 hereinafter jointly referred to as obliged media service provider) shall be subject to the obligations defined under Paragraph (2) in respect of all their linear media services.

(2) The obliged media service provider shall have an obligation to contract in respect of all its linear media services according to the fair and reasonable contract offers of the media service distributor. The obliged media service provider shall be subject to an obligation to contract in respect of each linear media service separately.

(3) The conclusion of an agreement subjecting any of the other media services of the obliged media service provider, which are not essential for the distribution of the given media service, or the purchase or use of other services or products may not be set by the obliged media service provider as a precondition of the conclusion of an agreement pertaining to any of its media services or of the determination of the material contents of such agreement (prohibition on tying).

(4) The obliged media service provider and media service distributor shall determine the agreement and the contractual terms and conditions thereof – in particular, but not exclusively, the fee – in line with the principle of equal treatment, by setting an affordable price level and by taking into account the principles of technological neutrality and economies of scale. In the course of this, the obliged media service provider shall not differentiate between the contract offers of the media service distributors, unless it is justified. Parties shall be entitled to amend the agreement in terms of the fee once a year, reckoned from the date the agreement was concluded.

(5) For the purposes of this Act it shall be regarded as a behaviour violating the principle of equal treatment, in particular, if the obliged media service provider

a) unreasonably subjects distribution of the programme flow to technical conditions which a decisive proportion of media service distributors are unable to meet, or

b) determines such pricing terms and tariffs – including volume discount – in the course of determining the fee payable by the media service distributors, so that upon application of these terms and tariffs, the most advantageous terms would become available only to a few media service distributors.

(6) The offer may be rejected if performance of the commitments contained in the offer is impossible due to objective technical or economic reasons, and the parties cannot come to an agreement regarding these terms within the framework of the procedure aimed at conclusion of the agreement.

(7) In case of any doubt, the obliged media service provider shall be responsible to prove that refusal of the offer was well-founded.

**Article 79** (1) In order to ensure the proper and transparent satisfaction of the obligation to contract defined in Article 78 (2), the obliged media service provider shall determine the general contractual framework conditions related to the distribution of its media service, and shall publish such conditions on its website.

(2) The obliged media service provider shall determine its general contractual framework conditions as per Paragraph (1) in line with the requirements of rationality in such a way as to ensure that they are justified, transparent and verifiable. Conditions contrary to these shall not be applied.

(3) The provisions of Paragraphs (1)-(2) shall apply to the following contractual terms and conditions:

a) the contractual framework conditions regarding the programme fee payable to the obliged media service provider, in particular the principles, method, period of application of the pricing policy of the obliged media service provider and the method and date of payment,

b) the procedure applicable for the conclusion of the agreement, the method and terms for using the service and its technical, economic or other restrictions, if any,

c) cases and conditions of amendment or termination of the agreement,

d) cases of interruption of the service,

e) breach of the agreement and the legal sanctions thereof.

(4) In the event of modification of the contractual terms and conditions, the obliged media service provider shall make the new contractual terms and conditions available at least thirty days prior to the entry into force of the new contractual terms and conditions.

(5) The Office shall monitor the fulfilment of the obligations set forth under Paragraphs (1)-(4).

**Article 80** (1) The media service distributor shall be entitled to initiate the legal dispute procedure as per Articles 172-174 if

a) the agreement as per Article 78 (2) is not concluded within thirty days of making the offer, or

b) the obliged media service provider has violated the authorised media service distributor's right or legitimate interest laid down by law or in an agreement, affecting distribution of the media services.

(2) If the amount of the fee payable by the media service distributor is contested, the obliged media service provider shall be responsible to prove the legitimacy of the pricing and that the proceedings have been conducted in line with the requirement of equal treatment.

**Article 81** (1) The obliged media service provider shall send to the Office all agreements, and the amendments thereof, concluded with media service distributors within the framework of the obligation defined in Article 78 within thirty days of their conclusion or amendment, and shall notify the Office of the termination of such agreements within thirty days of termination.

(2) The obliged media service providers and the media service distributors shall provide data upon the Authority's request in connection with the obligation defined in Articles 78-79.

## ***PART THREE*** ***PUBLIC MEDIA SERVICES***

### Chapter I BASIC PRINCIPLES AND OBJECTIVES OF PUBLIC MEDIA SERVICES

#### **Basic Principles of Public Media Services**

**Article 82** Public media service is characterised by the following:

a) it operates independently from both the State and from economic operators, furthermore the managers of the public media service provider and those involved in its activities have professional

autonomy within the applicable legislative framework,

- b) its system ensures accountability and the existence of social control,
- c) its operations are financed primarily from the joint voluntary contributions of those living in Hungary, from public funding,
- d) its activities cannot be primarily focused on profit-making.

### **The Objectives of Public Media Services**

**Article 83** (1) The objectives of public media service are as follows:

- a) to provide media services which are comprehensive in both the social and the cultural sense, aiming to address as many social classes and culturally distinct groups and individuals as possible,
- b) to support, sustain and enrich national, community and European identity, culture and the Hungarian language,
- c) to promote and strengthen national cohesion and social integration, and to respect the institution of marriage and the value of family,
- d) to provide information about and support constitutional rights, the fundamental values of law and order and the rules of democratic social order,
- e) to satisfy the media related needs of nationalities, religious communities and other communities, present their culture, support and sustain the mother tongues of nationalities,
- f) to satisfy the media service related special needs of underprivileged groups who are at a great disadvantage due to their age, physical, mental or psychological state or social circumstances, as well as of people with disabilities,
- g) to serve the cultural needs of Hungarians living abroad, promote preservation of their national identity and mother tongue and enable them to have spiritual relations with their mother country,
- h) to broadcast programmes serving the physical, mental and moral development and interest of minors and widening their knowledge, as well as educational and information programmes serving child protection purposes,
- i) to accomplish educational and information tasks and present the latest scientific findings,
- j) to disseminate information promoting healthy lifestyles, protection of the environment, nature and landscape conservation, public security and transport safety,
- k) to present programmes about the social, economic and cultural life in Hungary and of various areas within the Carpathian Basin,
- l) to present Hungary and Hungarian culture, as well as the culture of the nationalities living in Hungary to Europe and to the world,
- m) to provide a balanced, accurate, thorough, objective and responsible news service and information,
- n) to confront dissenting opinions with one another, conduct debates about community affairs, contribute to the freedom of opinion based on the provision of reliable information,
- o) to broadcast a rich palette of diverse programme flows representing different values, present high quality entertainment, as well as programmes generating widespread interest,
- p) to implement high quality programme-making across every segment of the programme flow, reasonable and justified involvement in media market competition.

(2) Public media service strives to:

- a) ensure innovation in the media profession, the continuous improvement of professional standards and the use of high ethical standards in the media service,
- b) boldly use new technologies and methods serving media service distribution, play a pivotal role in discovering new digital and Internet media services and exploit these in the public's interest,
- c) promote acquisition and development of knowledge and skills needed for media literacy through its programmes and through other activities outside the scope of media services,



d) support Hungarian cinematographic art and present new Hungarian cinematographic works,  
e) serve public interest through activities outside the scope of media services, such as book publishing or active involvement in theatre events.

(3) The public media service provider shall contribute to the long-term preservation, archiving and professional collection and care of cultural values and documents of historical significance that come into its possession in the course of performing its activities.

## Chapter II THE PUBLIC SERVICE FOUNDATION

### General rules

**Article 84** (1) The Parliament establishes the Public Service Foundation (hereinafter as: Public Foundation) to ensure the provision of public media service and public news service and to protect their independence. The Public Foundation is the owner of the Duna Media Service Provider Non-Profit Private Limited Company (hereinafter referred to as: the public media service provider).

(2) The initial assets of the Public Foundation shall be determined by the Parliament in a parliamentary decision.

(3) The Parliament shall adopt and may amend the Public Foundation's Statutes. Issues relating to the operation and organisational structure of the Public Foundation not regulated in this Act or the Statutes shall be specified in the Public Foundation's By-laws.

(4) Unless otherwise specified by this Act, the general rules governing foundations shall apply to the Public Foundation.

### Board of Trustees of the Public Service Foundation

**Article 85** (1) The managing body of the Public Foundation is the Board of Trustees.

(2) The responsibilities and the framework of the activities of the Board of Trustees shall be determined in the Public Foundation's Statutes, in line with this Act.

(3) The Board of Trustees shall, within the framework of this Act and the Public Foundation's Statutes, define and adopt its own procedural rules, as well as the Public Foundation's By-laws. These procedural rules shall include the rules governing the substitution of the Chairperson of the Board of Trustees.

(4) The activities of the Board of Trustees shall be supported by the Board of Trustees' Office (hereinafter as: Board of Trustees' Office). The administrative, management and procedural duties of the Board of Trustees shall be fulfilled by the Board of Trustees' Office. The Board of Trustees and the members of the Board of Trustees shall be entitled to avail themselves of expert assistance via the Board of Trustees' Office. The terms and conditions of employing experts as well as the operating conditions of the Board of Trustees' Office shall be set out in the Public Foundation's By-laws.

### Composition of the Board of Trustees

**Article 86** (1) The Parliament shall elect six members to the Board of Trustees by voting for each member individually.

(2) Half of the members who may be elected by the Parliament to the Board of Trustees shall be nominated by the governing factions, while the other half shall be nominated by the opposition factions. Both the governing factions and the opposition factions shall agree among themselves upon the candidates who may be nominated by the respective side.

(3) Nominations for candidates shall be made within eight days following the commencement of

the election procedure. The election shall be held within eight days of the nomination of candidates.

(4) Should any faction fail to participate in the nomination, the other factions of the given side may exercise the given side's right to nominate.

(5) A new candidate shall be nominated in place of a non-elected candidate within eight days, and the new election shall be held within the subsequent eight days. A person who did not receive at least one-third of the votes of all the Members of Parliament in the course of the previous election may not be renominated.

(6) The Chairperson of the Board of Trustees and one other member shall be delegated by the Media Council for a term of nine years.

(7) The Board of Trustees shall be deemed to have come to existence when its members have been elected, and its Chairperson, and one other member, have been delegated by the Media Council. The member of the Board of Trustees elected by the Parliament shall take an oath according to the provisions of the Act on the Oath and Pledge of Certain Public Law Officials, whereas the Chairperson and the delegated member shall take the oath upon taking up their offices, in front of the President of the Parliament, with text determined under the Act on the Oath and Pledge of Certain Public Law Officials.

(8) The formation of the Board of Trustees shall not be prevented by failure of either the governing or the opposition side to make a nomination, or by not all nominees obtaining the necessary majority or, upon the application of Paragraph (5), by the new nominee not obtaining the necessary majority. In this case the Board of Trustees shall come into existence with the election of at least three members.

(9) When formed with less than the full headcount, the Board of Trustees may be completed up to the full headcount in accordance with the provisions of Article 87.

(10) Members of the Board of Trustees shall be elected by the Parliament for a term of nine years. The mandate of the elected and delegated members shall expire at the same time, i.e. after nine years from the date of election of the elected members by the Parliament.

**Article 87** (1) If the mandate of an elected member terminates before the expiry of the period defined in Article 86 (10), the nomination and election of the new member shall take place in accordance with Paragraphs (2)-(7).

(2) If the nomination of a new member takes place within the same Parliamentary cycle as the one in which other members of the Board of Trustees are elected, or if no change has occurred in respect of the factions of the governing side and the opposition side following Parliamentary elections held after this Parliamentary cycle, then the provisions of Article 86 (2)-(4) shall apply to the nomination, with the provision that the right of nomination shall be vested in that (governing or opposition) side that originally nominated the member (who was elected) and who is to be replaced through the new nomination process, after his/her mandate expired.

(3) If the nomination of a new member takes place after the Parliamentary cycle during which the members of the Board of Trustees were elected, then, provided that there is a change regarding the factions of the governing and the opposition side following the Parliamentary elections held after the Parliamentary cycle during which the Board of Trustees was elected, a nominating committee consisting of one member of each Parliamentary faction shall propose a candidate by unanimous vote within fifteen days following the establishment of the nominating committee.

(4) Should the nominating committee fail to nominate a member within the deadline defined under Paragraph (3), the nominating committee may then propose a candidate within another period of eight days with at least two-thirds of the votes. In the course of this, the number of votes held by the individual members of the nominating committee shall be proportionate to the size, at the time of voting, of the Parliamentary faction nominating the given member.

(5) In the course of candidate nomination under Paragraphs (3)-(4), the nominating committee shall take into consideration any changes taking place regarding the governing and the opposition side,

such as when a Parliamentary faction changes the side to which it belongs, or in case of establishment of a new faction or the termination of an existing faction.

(6) Should the nominating committee fail to nominate a sufficient number of candidates even under the scenario defined in Paragraph (4), a new nominating committee shall be established.

(7) After a successful nomination, the Parliament shall elect the new member for the remaining term of the mandate of the members of the already operational, elected Board of Trustees. The new member of the Board of Trustees shall take an oath according to the provisions of the Act on the Oath and Pledge of Certain Public Law Officials.

(8) In case of early termination of the mandate of the Chairperson of the Board of Trustees or a Board of Trustees member delegated by the Media Council, the Media Council shall, within fifteen days, delegate a new Chairperson/member for the period lasting until the mandate of the members of the Board of Trustees expires.

**Article 88** (1) Conflict of interest rules stated in Article 118 (1)-(2) pertaining to the Chairperson and members of the Board of Trustees, the President, Vice President, Director General and Deputy Director General of the Authority, as well as the rules stated in Article 118 (3) shall apply as appropriate.

(2) Neither the Chairperson of the Board of Trustees nor its members may be engaged in an employment relationship with the Public Foundation, and may not accept remuneration under any legal title from the public media service provider.

(3) The Chairperson and members of the Board of Trustees may not establish any work-related legal relationship with the public media service provider within one year following the termination of their mandate.

(4) If the Chairperson of the Board of Trustees or any of its members fail to meet their verification obligation despite being asked to do so as defined in Article 89 (4) due to their own fault, or if any conflict of interest arises in respect of a member of the Board of Trustees or its Chairperson, and the conflict of interest is not eliminated within thirty days of the emergence of the cause of the conflict of interest or of the date of the meeting establishing the conflict of interest, the plenary meeting of the Board of Trustees shall adopt a decision terminating the Board membership of the Chairperson or the member of Board of Trustees. The Chairperson or member of the Board of Trustees may not exercise his/her powers arising from his/her office as of the date of the adoption of the decision establishing a conflict of interest.

(5) The mandate shall be terminated by way of dismissal if the Chairperson or any member of the Board of Trustees is placed under guardianship affecting his/her legal capacity.

(6) The mandate shall be terminated by exclusion, if

a) the Chairperson or member of the Board of Trustees is unable to fulfil his/her responsibilities arising from his/her mandate for more than six consecutive months for reasons within his/her control, or

b) if as a result of criminal proceedings instituted against any member or the Chairperson of the Board of Trustees, the Chairperson or member is declared guilty by the court's final judgement delivering a term of imprisonment, or banning him/her from exercising his/her profession corresponding to the activities of the Board of Trustees or prohibition from participation in public affairs.

(7) The mandate of the Chairperson or a member of the Board of Trustees shall terminate upon his/her death.

**Article 89** (1) Termination of the mandate of the Chairperson or a member of the Board of Trustees due to conflict of interest, dismissal or exclusion shall be established and announced by the plenary meeting of the Board of Trustees.

(2) In the plenary meeting of the Board of Trustees adopts a decision about a conflict of interest, dismissal or exclusion, the Chairperson or member affected by such decision may not take part in the

voting process, and the unanimous decision of those entitled to vote is required to resolve such matters. If an unanimous decision is not reached in case of a repeated voting concerning the issues mentioned above, the Chairperson of the Board of Trustees shall initiate the decision making of the Parliament on the subject matter. In this case, the Parliament shall adopt a decision on the conflict of interest, dismissal or exclusion.

(3) If any suspicion of a conflict of interest arises in relation to the Chairperson of the Board of Trustees, then the member designated in the procedural rules of the Board of Trustees shall exercise the powers of the Chairperson in the proceedings defined under Paragraphs (5)-(6).

(4) If any information comes to light suggesting that any of the legal sanctions defined in Article 88 (6) (b) are applicable to any member of the Board of Trustees, then the Chairperson of the Board of Trustees shall call upon the concerned member of the Board of Trustees in writing, by designating a deadline and by specifying the legal sanctions of failure to comply, to verify having a clean criminal record and not being banned from exercising a profession corresponding to its activities with the Board of Trustees or prohibited from participating in public affairs.

(5) The Chairperson of the Board of Trustees shall be in charge of handling the personal data of the members of the Board of Trustees that have come to his/her knowledge pursuant to Paragraph (4) until termination of the mandate of the member of the Board of Trustees.

(6) The provisions of Paragraphs (4)-(5) shall apply to the Chairperson of the Board of Trustees, with the difference that the Chairperson of the Board of Trustees shall fulfil his/her verification obligation defined under Paragraph (4) to the Board of Trustees, whereas the right defined under Paragraph (5) shall be exercised by the Board of Trustees. The Chairperson of the Board of Trustees shall not be involved in exercising the powers of the Board of Trustees defined in this Paragraph.

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

**Article 90** (1) The Board of Trustees:

a) monitors whether the objectives of the public media service are fulfilled through the activities of the public media service provider,

b) if, according to the opinion of the Board of Trustees, the behaviour of the public media service provider seriously violates or threatens the attainment of public media service objectives, then it may initiate the Media Council's proceedings,

c) safeguards the independence of the public media service provider,

d) establishes and amends the Statutes of public media service provider, and publishes these in the Hungarian Gazette,

e) elects the CEO of the public media service provider, and determines the terms and conditions of his employment contract and remuneration,

f) may terminate the employment relationship of the CEO of the public media service provider,

g) elects the Chairperson and members of the joint Supervisory Board of the public media service provider, and may also remove these,

h) appoints the auditor of the public media service provider, and may terminate the mandate of such auditor. The responsibilities, powers and competence of the auditor are regulated by the Board of Trustees in the Statutes of the public media service provider, in accordance with the provisions of the Civil Code applicable to business associations and the Accounting Act,

i) approves the annual financial management plan of the Public Foundation and adopts its balance sheet,

j) exercises the rights of the General Meeting in relation to public media service provider pursuant to the provisions of the Civil Code applicable to business associations, subject to the deviations set forth in this Act,

k) manages the Public Foundation's assets in its capacity as trustee of the Public Foundation,

l) may increase or decrease the equity capital of the public media service provider, as regulated by the Public Foundation's Statutes,

m) approves the principles and key accounts of the public media service provider's annual financial management and financial plans,

n) approves the public media service provider's balance sheet and profit and loss statement,

o) monitors the funding and financial management of the public media service provider in terms of compliance with applicable requirements of the European Union,

p) may grant prior authorisation for negotiating such contracts having a value of more than three hundred million forints which the public media service provider wishes to conclude,

q) may grant the prior approval necessary for the public media service provider to take out a loan or to conclude contracts having a value of more than one hundred million forints, or to amend or terminate any of the contracts concluded according to the above mentioned provisions,

r) carries out other duties defined in this Act.

(2) For the purposes of Paragraph (1) (p)-(q), the value of the services to be provided by the public media service provider under various contracts concluded with the same contracting party during the same calendar year, regardless of their content, shall be aggregated.

**Article 91** (1) The Public Foundation shall exercise the founders' and shareholders' rights in respect of the public media service provider, as defined by the provisions of the Civil Code applicable to business associations. However, it is not entitled:

a) to change the basic scope of activities of the public media service provider,

b) to terminate or transform the public media service provider or to transform it into another organisational form,

c) to withdraw assets from the public media service provider,

d) to define the programme flow structure of the public media service provider, as well as the content of its programme flow, other services or programmes,

e) to give instructions to the CEO of the public media service provider in respect of the employer's rights exercised by such CEO,

f) to decide in matters falling within the competence of the CEO of another organisation or of the public media service provider pursuant to this Act.

(2) The Public Foundation's Board of Trustees cannot extend its powers defined in Article 90, not even with the founder's rights defined by the provisions of the Civil Code applicable to business associations, but not included in Article 90.

### **Operation of the Board of Trustees**

**Article 92** (1) The Board of Trustees shall meet with the frequency required for fulfilling its responsibilities, but at least once every month. The CEO of the public media service provider shall be invited to attend the discussions of any items on the agenda relating to General Meeting issues. The Chairperson of the Board of Trustees shall convene an extraordinary meeting of the Board of Trustees within eight days if the majority of the members of the Board of Trustees so requests by determining the agenda of such meeting. In case of failure to do so, the initiators are collectively entitled to convene the extraordinary meeting.

(2) Members of the Board of Trustees, including the Chairperson of the Board of Trustees, shall have equal voting rights. In the event of a tie vote, the vote of the Chairperson shall be decisive.

(3) The Board of Trustees has quorum when more than half of its members are present.

(4) The Board of Trustees shall adopt its decisions by a simple majority of the votes of its members and the Chairperson, unless otherwise stipulated by the Act.

(5) The Chairperson of the Board of Trustees shall draw up the agenda for the meeting and preside over the meeting. Any member may make a proposal concerning the agenda in advance and in



writing, the placement of such proposed item on the agenda shall be decided upon by the meeting.

### **Remuneration of the Chairperson and Members of the Board of Trustees**

**Article 93** The Chairperson of the Board of Trustees shall be entitled to a honorarium equalling sixty-five percent of the remuneration of state secretaries, whereas members of the Board of Trustees shall be entitled to forty percent of the remuneration of state secretaries, and they may require reimbursement of expenses up to fifty percent of the amount of their honorarium at most. Further rules pertaining to the rate of reimbursement of expenses shall be set forth in the Public Foundation's By-laws.

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

**Article 94** (1) The revenues of the Public Foundation shall comprise the following:

- a) financial support received from the Fund to finance operations,
- b) the proceeds from the assets of the Public Foundation,
- c) the proceeds from the utilization of assets managed by the Public Foundation,
- d) other revenues serving foundation purposes (subsidies, targeted subsidies from the state budget, payments made to the foundation).

(2) The expenditures of the Public Foundation comprise the following:

- a) contributions to the operating and development expenses of the public media service provider,
- b) the Public Foundation's own expenses, expenditures.

(3) The Public Foundation may not carry out for-profit economic activities, may not found other business associations and may not acquire shares in other operating business associations, and is not entitled to establish foundations.

(4)

## **Chapter III THE PUBLIC SERVICE CODE AND THE BOARD OF PUBLIC SERVICES**

### **The Public Service Code**

**Article 95** (1) The Public Service Code (hereinafter as: the Code) contains, in accordance with this Act, the basic principles governing public media services and fine-tunes the public service objectives defined in this Act. The Code may have a general content and also a content relating to individual public media services separately. Fundamentally, the Code is meant to provide guidance to the public media service provider regarding the appropriate operating principles of the public media services within the framework of the Act.

(2) The Code will first be adopted by the Media Council with the consent of the Board of Trustees and with a view to the opinion of the CEO of the public media service provider.

(3) The Code may be amended by the Board of Public Services, following its first approval in accordance with Paragraph (2), with the Board of Trustees' consent. Apart from the Board of Public Services, an amendment may also be initiated by the Board of Trustees and the CEO of the public media service provider.

(4) The Institute for Media Studies operating under the aegis of the Media Council shall provide

professional support to the drafting and amendment of the Code.

(5) Enforcement of the rules defined by the Code shall be supervised by the Board of Public Services.

**Article 96** The Code can, among other things, regulate the following:

- a) the means and method of attaining the statutory objectives of public media service,
- b) the basic principles of independence from political parties and political organisations,
- c) the principles regarding the presentation of the diversity, objectivity and balanced nature of news and timely political programmes, presentation of disputed matters and the diversity of opinions and views,
- d) the criteria for supporting and sustaining the mother tongue culture,
- e) the principles of the rules of presenting the culture and life of the nationalities living in Hungary,
- f) the principles of presenting cultural, scientific, ideological and religious diversity,
- g) the principles of performing tasks with regard to the protection of minors,
- h) the principles relating to ethical norms governing the broadcasting of commercial communications, advertising activities and the sponsorship of programmes,
- i) the principles of communicating public service announcements,
- j) the principles relating to the extent and guarantees of the autonomy and responsibility of production companies employed by the public media service provider, and to the guarantees of their participation in the definition of the principles of the production and editing of programmes,
- k) the principles of keeping members of the Hungarian nation living abroad adequately informed, and also of providing adequate information about them,
- l) the principles of formulating basic ethical rules, other than those in this Act, applying to staff members, with special regard to those employed in relation to news and political programmes.

### **The Board of Public Services**

**Article 97** (1) The Board of Public Services is composed of fourteen members, its Chairperson is elected by its own members from among themselves, it adopts its decisions with a simple majority of votes, unless this Act stipulates otherwise. In the event of a tie vote, the vote of the Chairperson shall be decisive.

(2) Members of the Board of Public Services are delegated by the nominating organisations defined in Annex 1 of this Act for a term of three years, in the manner as defined in the Annex. Members may be delegated several times. Failure by any of these organisations to exercise their delegation right shall not impede the operation of the Board of Public Services.

(3) Members of the Board of Public Services shall be delegated at least thirty days prior to the expiry date of the previous members' mandate.

(4) The secretarial duties of the Board of Public Services shall be provided for by the Public Foundation's Office and its costs – including the honorarium of the Chairperson and the members – shall be borne by the Public Foundation.

(5) The Chairperson of the Board of Public Services shall be entitled to a honorarium equalling forty percent of the remuneration of state secretaries, whereas its members are entitled to twenty-five percent of the remuneration of state secretaries. In addition to this, the Chairperson and members may require reimbursement of their travel expenses as necessary for performing their tasks relating to the Board. The conflict of interest rules defined in Article 118 shall be applied regarding the Chairperson and the members – with the exception of those stipulated in Point e) of Article 118 (1) – as appropriate.

(6) The Board of Public Services guarantees social control over the public media service provider.

(7) The Board of Public Services constantly monitors how public service orientation is manifested, and exercises control in accordance with Paragraphs (8)-(13) over the public media service provider

in relation to the enforcement of the provisions of this Act.

(8) Once every year, by 28 February of the year following the current calendar year, the CEO of the public media service provider prepares a report on whether the media service provider, according to his own assessment, has fulfilled the requirements outlined in this Act regarding the objectives and basic principles of public media service.

(9) The Board of Public Services shall discuss the report and decide on the acceptance thereof by a simple majority.

(10) If the Board of Public Services, after having personally interviewed the CEO, decides to reject the report, the Board of Public Services may consider submitting a proposal to the Board of Trustees for the termination of the CEO's employment relationship. Adopting such a proposal requires the two-thirds majority of the members of the Board of Public Services.

(11) The Board of Trustees shall put on its agenda and debate the proposal for the termination of the CEO's employment relationship within eight days. The CEO and the Chairperson of the Board of Public Services shall be invited to the meeting of the Board of Trustees.

(12) The Board of Trustees shall decide on the proposal to terminate the employment relationship by a simple majority of the members present. The decision needs to be accompanied with a justification.

(13) If the Board of Trustees does not terminate the CEO's employment relationship despite the proposal, then in three months time the Board of Public Services shall put a new hearing of the CEO on its agenda.

(14) If the CEO's employment relationship was terminated due to his/her failure to ensure implementation of public service objectives and principles, then he/she may not be re-nominated for the CEO's position of the public media service provider for a period of ten years.

## Chapter IV THE PUBLIC MEDIA SERVICE PROVIDER

### General rules

**Article 98** (1) The public media service provider is responsible for implementing the objectives of public media service as defined in Article 83. The media service provider shall fulfil this task by coordinating the activities of the public media services.

(2) The rules pertaining to companies limited by shares, as defined by the provisions of the Civil Code applicable to business associations shall apply, as appropriate, to the public media service provider, including the common rules applicable to business associations as well, unless otherwise provided for by this Act.

(3) The public media service provider shall hold one non-marketable share.

(4) The public media service provider shall not pay any media service provision fee.

(5) The public media service provider shall provide at least one radio and at least one audiovisual linear public media service to the overwhelming majority of the population of Hungary. Services provided to the overwhelming majority of the population shall mean, for radio media services, terrestrial media services that may be received by eighty percent of the population in the 87.5 to 108.0 MHz frequency band, or, for audiovisual media services, media services available to ninety percent of the population.

(6) In addition to its national media services, the public media service provider may also provide local or regional media services.

(7) The Media Council shall decide on the media service facilities used by the individual public media service provider – including media services targeted at foreign countries as well – on the basis of technical, economic, and media policy considerations and after consultation with the CEO of the

Fund.

(8) In relation to public audiovisual and radio media services, the Media Council – after consultation with the CEO of the Fund and taking into consideration economic and budgetary planning related considerations for the next year, and with regard to the fulfilment of the public service objectives set forth in Article 83 of this Act – may supervise the system of public media services annually and may decide whether to maintain the existing media services of the public media service provider or to change the system thereof.

(9) For the purpose of facilitating the implementation of the objectives of public media service, to the required degree, the pieces of legislation governing the restriction (in terms of gross vehicle weight, axle load and size) of usage of vehicles in road traffic on the area of Hungary and the related tariff payment obligations and time limits shall not be applied for the motor-vehicles operated and used by the public media service provider and/or the Fund in the course of programme production.

### **Appearance of Nationalities in Public Media Service**

**Article 99** (1) All nationalities recognised by Hungary are entitled to support and sustain their culture and mother tongue, and to be regularly informed in their mother tongue by way of separate programmes aired through public media service.

(2) The responsibility defined under Paragraph (1) shall be fulfilled by the public media service provider via national or, having regard to the geographic location of the nationality, via local media services by airing programmes satisfying the needs of the nationality in question, or via audiovisual media services using subtitles or broadcasting in multiple languages, as required.

(3) The national local governments of nationalities, or (in the absence of such local governments) their national organisations, shall independently decide on the principles of allocation of the transmission time made available to them by the public media service provider. The public media service provider shall abide by these principles, but these may not affect the contents and editing of the programme.

### **Public Service Media Assets and the Archive of the Public Media Service Provider**

**Article 100** (1) All ownership rights and obligations associated with public service media assets that are owned by the State shall be exercised by the Fund, with the exceptions set forth under Paragraphs (2), (5) and (6).

(2) The Fund may not alienate, transfer or encumber public service media assets in any way, neither in full nor in part. This prohibition does not exclude the utilisation of copyright, related rights and usage rights existing with respect to certain items of the public service media assets.

(3) The Fund shall be responsible for the storage, safekeeping and use of public service media assets and also those physical data carriers containing works and other subject matter subject to Act LXXVI of 1999 on Copyrights (hereinafter referred to as: the Copyright Act), acquired by the public media service provider and the Fund, which do not fall within the scope of public service media assets (hereinafter jointly referred to as: the Archive). The Archive shall qualify as a public collection with a nationwide collection area.

(4) The detailed archiving rules as well as detailed rules of preserving, maintaining and utilisation of the Archive shall be defined by the Fund's CEO in a regulation, with the agreement of the Media Council.

(5) The Fund may transfer to the public media service provider any copyrighted works belonging to the public service media assets, as well as other intellectual property which fall outside the scope of public service media assets but in respect of which the Fund has a usage right, for purpose of

utilisation required for performance of the public media service provider's public service tasks (among others, in particular, for the purpose of transmission to the general public), without the need for any separate permission or payment. The public media service provider is granted a free of charge right to use those items of the public service media assets which are used by it.

(6) Copyrighted works and other intellectual property located in the Archive, constituting part of the public service media assets, as well as those that fall outside the scope of public service media assets may be used by the Fund and the public media service provider within the framework of the Copyright Act and the terms and conditions of agreements concluded with copyright owners and holders of related rights.

(7) Unless otherwise agreed, the provisions contained in Article 30 (3) of the Copyright Act shall not be applied in terms of the acquisition of the right of use by the public media service provider over the items of the public service media assets which are used by it.

### **Strategic Plan of the Public Service Media and Measurement of Public Service Value**

**Article 100/A** (1) The public media service provider shall be obliged to prepare a general strategic plan for each year, until 31 May of the year preceding the target year, wherein it shall identify and evaluate the possible directions and ways of improvement of the quality of public media services, taking into account, in particular, among others, the following criteria:

- a) international and Hungarian media market trends,
- b) technological developments and innovations,
- c) the experience learned from the procedures targeting the reviewing and monitoring of public service value as per Article 100/B,
- d) the contents of the Public Service Code,
- e) opinion of the Board of Public Services,
- f) results of the examination of public service value,
- g) viewing and listenership figures and other media consumption data.

(2) In addition to the general strategic plan, on an ad hoc basis, the public media service provider shall also be obliged to prepare strategic plans in terms of certain sub-issues of the media service, adjusted to the needs of the public media service.

(3) The strategic plans specified under Paragraphs (1)-(2) must also be in line with the provisions of this Act, the requirements laid down in the Code, and the respective recommendations and rules of the European Union and the Council of Europe.

(4) The strategic plans specified under Paragraphs (1)-(2) shall serve as the basis of the operation of the public media service, and the cooperation between the public media service provider and the Fund.

**Article 100/B** (1) The public media service provider shall be obliged to examine and check the public service nature and value of its services as well as their impact on the diversity of the media market.

(2) The detailed rules of examination of the public service value shall be regulated under the respective set of regulations, to be adopted jointly by all of the organisations or bodies affected by the procedure, at the initiative and under the coordination of the public media service provider.

(3) In the course of creation and possible amendments of the regulations specified under Paragraph (2), the provisions of this Act, the requirements laid down in the Code, and the respective recommendations and rules of the European Union and the Council of Europe must be taken into account.

### **The News Agency Tasks of the Public Media Service Provider**



**Article 101** (1) The public media service provider shall perform the following news agency tasks in addition to implementing the objectives defined under Article 83:

a) provides news items, news reports, photographs, data carriers, background materials, graphic images and documentary information about events of general public interest, taking place either in Hungary or abroad,

b) provides access to all such news items and news reports, which the general public needs to know in order to adequately enforce community and individual rights and interests,

c) plays a role in transmitting public service announcements made by public authorities, other organizations or natural persons to the printed and electronic media,

d) provides regular and factual information about the actions of parliamentary parties, other political parties, significant non-governmental organizations, the Government, public administration entities, local governments, courts and prosecutor's offices, and shall make the official communications related to the above public,

e) provides regular and factual information to foreign countries about the most important events taking place in Hungary and the main processes in the country's life,

f) provides information regularly and factually about the lives of Hungarians living outside the borders of Hungary, and provides news services to them,

g) provides regular and factual information about the life of nationalities living in Hungary,

h) ensures provision of information, as outlined in a separate Act, during election periods,

i) in a state of national crisis or state of emergency performs the duties outlined in a separate Act,

j) ensures long-term preservation and protection of cultural values and original documents of historical importance that come into its possession in the course of performing its activities,

k) participates in the work of international news agency organisations.

(2) The public media service provider, in order to fulfil its news agency tasks, shall operate

a) a network of correspondents covering all counties of Hungary as well as the Hungarian capital,

b) a network of correspondents covering all areas within the Carpathian Basin which have a Hungarian population,

c) a network of foreign correspondents as the country's international relations and interests may require.

(3) In case of a national crisis, state of emergency or state of danger, or if the territory of Hungary is subject to unexpected attack by foreign armed groups, furthermore, in the event of having to defend the territorial integrity of the country by the anti-aircraft and stand-by air forces of the Hungarian Defence Forces, the Parliament, the National Defence Council, the President of the Republic and the Government, and/or persons and entities defined by law may, to the extent necessitated by the given situation, order the public media service provider (within the scope of its news agency activities), in accordance with Article 32 (6), to provide information.

### **Electing the CEO of the Public Media Service Provider**

**Article 102** (1) The public media service provider shall be managed by the CEO, as there is no Board of Directors. The CEO shall, within the framework of this Act, exercise all the powers referred to the Board of Directors of a company limited by shares by the respective provisions of the Civil Code applicable to business associations. An employment contract shall be executed with the CEO, and his/her remuneration shall be defined as a monthly sum payable by the public media service provider.

(2) The Board of Trustees shall exercise the employer's rights in respect of the CEO of the public media service provider, which includes the appointment of the CEO and the termination of his employment relationship. The CEO shall be nominated and appointed in the following step-by-step order:

- a) the President of the Media Council proposes two CEO candidates to the Media Council;
- b) if the Media Council approves of these candidates, then it shall submit the nominations to the Board of Trustees, in order to have one of the candidates selected;
- c) if the Media Council does not approve of one of the candidates proposed by the President of the Media Council, then the President of the Media Council shall propose a new candidate; the Media Council may make a proposal to the Board of Trustees only if it had approved two candidates;
- d) the Media Council may also make a proposal regarding the contents of the CEO's employment contract;
- e) during the first round of voting, the Board of Trustees shall come to a decision concerning the appointment of the CEO by a two-thirds majority of all of its members, including its Chairperson;
- f) if the Board of Trustees cannot make a selection from the two candidates by a two-thirds majority within thirty days from the date on which they were nominated by the Media Council, then a new nomination procedure shall be conducted;
- g) in the course of the new nomination, two new candidates shall be proposed again;
- h) during the vote, taking place after the new nomination, the Board of Trustees shall come to a decision concerning the appointment of the CEO by a simple majority of all of its members, including its Chairperson.

(3) The Board of Trustees shall come to a decision by vote concerning the appointment of the CEO and the terms and conditions of his/her employment contract, drawn up with a view to the Media Council's proposal. The CEO's employment contract shall be concluded for an indefinite period. Should the elected CEO refuse to accept the terms and conditions of the draft employment contract determined by the Board of Trustees, then the Board of Trustees shall take a repeated vote on the employment contract containing the amended terms and conditions. If no agreement can be reached on the terms and conditions of the employment contract, then a new CEO shall be elected.

(4) The CEO's employment relationship shall terminate in the following cases:

- a) upon his/her dismissal;
  - b) by termination with notice as per his/her employment contract;
  - c) upon his/her death;
  - d) in the event regulated by Article 97 (10)-(12), provided that the Board of Trustees decides in favour of termination based on the proposal made by the Board of Public Services.
- (5) The CEO's employment relationship shall be terminated by dismissal, if
- a) he/she is placed under guardianship affecting his/her legal capacity;
  - b) if, as a result of criminal proceedings instituted against him/her, he/she is pronounced guilty by the court's final judgement delivering a term of imprisonment;
  - c) he/she is unable to fulfil his/her responsibilities for three consecutive months for reasons beyond his/her control;
  - d) he/she is in breach of conflict of interest rules, and fails to eliminate such conflict of interest within thirty days of the date on which such conflict of interest has arisen;
  - e) he/she has been banned by the court from exercising his/her profession or has been prohibited from participating in public affairs.

(6) In case of dismissal, the termination of employment shall be established by the Board of Trustees.

(7) The CEO has the right to appoint one or more Deputy CEOs. The terms and conditions of the employment contracts of the Deputy CEOs shall be approved by the Board of Trustees.

**Article 103** (1) Persons eligible for the position of the CEO of the public media service provider include those Hungarian citizens with a clean criminal record and a diploma of higher education, who have at least five years of relevant work experience.

(2) Relevant work experience shall include previous experience in programme-making, broadcasting, information, as well as related technical, legal, managerial, administrative, economic,

cultural, scientific and opinion polling activities.

(3) Those, who at any time during the two years prior to the date of election, held the post of President of the Republic, Prime Minister, member of the Government, State Secretary, State Secretary for Public Administration, Deputy State Secretary, Member of Parliament, parliamentary spokesperson for ethnic minorities, Mayor of Budapest, Deputy Mayor of Budapest, Mayor, Deputy Mayor, or officer of a national or local organisation of a political party, may not be appointed as the CEO of the public media service provider.

(4) The process to be applied for the verification of the clean criminal record of the CEO of the public media service provider and applicable legal sanctions shall be governed by the Labour Code.

### **Conflict of Interest Rules Applicable to the Executives of the Public Media Service Provider**

**Article 104** (1) The conflict of interest rules under Article 118 (1) (a)-(c) and (f) pertaining to the Authority's President, Vice-President, Director General, Deputy Director General, as well as the grounds for exclusion under Article 118 (3) shall apply to the CEO and executive employees of the public media service provider throughout the term of their employment relationship, as appropriate.

(2) Apart from the conflict of interest rules under Paragraph (1), the CEO and executive employees of the public media service provider or their close relatives cannot be shareholding members or executive officers or Supervisory Board members in a business association which has a business relationship with the public media service provider headed by the CEO or employing the executive employee. If this rule is violated by a close relative of the public media service provider's CEO or executive employees, then it shall be considered as conflict of interest arisen in respect of the CEO or the executive employee, and the appropriate legal sanctions shall be applied.

(3) Throughout the term of their employment relationship, the CEO and executive employees of the public media service provider shall not be engaged in any revenue generating profession, with the exception of scientific, educational, literary, artistic and other activities under copyright protection, and shall not be entitled to receive any remuneration from the public media service provider, not even by virtue of these titles.

(4) The CEO of the public media service provider shall make a written statement, prior to entering into its employment contract, that no grounds for a conflict of interest exist in respect of him/her.

(5) The CEO or executive employee of the public media service provider cannot conclude, on behalf of the public media service provider, an agreement in which he/she, or a close relative of him/her, or such business association is the other contracting party, in which he/she or his/her close relative holds an indirect or direct ownership share, has some other pecuniary rights, or a personal interest. Contracts within the sphere of interest of those affected by this restriction cannot be concluded by any other employee of the public media service provider either.

**Article 105** (1) The CEO shall direct the public media service provider within the framework of this Act, other legal regulations, the Statutes of the Public Foundation and the public media service provider and the decisions of the Board of Trustees.

More particularly, he/she shall:

- a) decide on the programme schedule;
- b) establish the By-laws;
- c) ensure that the Public Service Code is enforced;
- d) draw up and submit to the Board of Trustees for approval the annual financial management plan, and ensure that it is implemented;
- e) draw up the balance sheet and profit and loss statement, and submit both to the Board of Trustees for approval;
- f) submit proposals for the authorisation of contracts or those needing prior approval, in line with

Article 90 (1) (p)-(q);

g) exercise the employer's rights in respect of the employees of the public media service provider, including the employment of the Deputy CEOs;

h) provide for the preparation of all further submissions as may be required by this Act and the Statutes of the Public Foundation or a decision of the Board of Trustees;

i) ensure, in collaboration with the Fund, that those engaged in or contributing to the public media service provider's activities receive regular in-service training in media;

j) have a seat in the Public Service Fiscal Council;

k) exercise all the rights, subject to the provisions of this Act, which are referred to the Board of Directors of a company limited by shares by the provisions of the Civil Code applicable to business associations.

(2) The CEO of the public media service provider shall receive no remuneration from the Public Service Foundation under any legal title, other than the allowances outlined in his/her employment contract.

### **The Supervisory Board of the Public Media Service Provider**

**Article 106** (1) The Supervisory Board monitors the management of the public media service provider (hereinafter as: Board). The Board is entitled to request reports or information from the CEO, the employees of the public media service provider, and may inspect the books, bank accounts, documents and petty-cash of the public media service provider at any time, or hire an expert to carry out such inspection at the cost of the public media service provider.

(2) The Board consists of a Chairperson and four members.

(3) The Chairperson of the Board and its members are elected by the Board of Trustees for a term and under the terms and conditions as defined in the Public Foundation's Statutes, with the exception of the Board member elected by the employees.

(4) The Board of Trustees determines the remuneration of the Board's Chairperson and the members thereof.

(5) The Board defines its own operating rules, and the Board of Trustees approves its rules of procedure.

(6) The Board shall be responsible for inspecting all such reports to be submitted to the Board of Trustees that relate to matters of fiscal nature of the public media service provider, falling within the scope of competence of the General Meeting of the Board of Trustees.

(7) The internal audit organisations of the public media service provider are under the control of the Board.

(8) Otherwise, the organisational structure and operations of the Board is governed by the provisions of the Civil Code applicable to business associations, and the Public Foundation's Statutes and By-laws.

### **The Auditor of the Public Media Service Provider**

**Article 107** (1) The auditor of the public media service provider is elected by the Board of Trustees for a term of two years. It is also the Board of Trustees' competence to terminate the auditor's mandate.

(2) The powers and responsibilities of the auditor shall be defined in the Statutes of the public media service provider, within the framework of the provisions of the Civil Code applicable to business associations.

### **Funding and Financial Management of the Public Media Service**

**Article 108** (1) The Fund shall support the fulfilment of the responsibilities of the public media service provider from its resources defined in Article 136 (3), and, if a specific order is placed, it shall perform the production, procurement and purchasing of the media contents of the public media service provider, as well as its other activities required for the public media service.

(2) Based on the resources specified under Article 136 (3), the Fund shall propose an amount to be spent on production and purchasing of media contents, with a breakdown as per the service types of public media service determined under point 31 of Article 203. The Public Service Fiscal Council (hereinafter referred to as: the Council) shall provide its opinion on this proposal.

(3) The Council is composed of three members, its members are the following:

a) the CEO of the public media service provider;

b) the CEO of the Fund,

c) the member delegated, on an ad hoc basis, by the President of the State Audit Office for whom the conflict of interests rules laid down in Articles 104 and 118 shall be applied as appropriate. The remuneration of this member shall be determined by the CEO of the Fund.

(4) The Fund shall make its proposal as per Paragraph (2) until 30 June each year, in terms of the forthcoming target year. The Council shall provide its opinion as per Paragraph (2) on the proposal until 31 July each year. Its opinion shall be formulated with a view to the public service objectives and plans outlined in this Act, the Code, and the strategic plans prepared pursuant to Article 100/A, and to the special tasks of the public media service provider. The Council shall accept its opinion by simple majority, shall attach a reasoning to it, and shall publish it on the Fund's website.

(5) In the event the Council's opinion rejects the Fund's proposal as per Paragraph (2), the Fund shall be obliged to submit a new proposal to the Council until 15 August each year. In such new proposal, it shall either accept the stipulations contained in the Council's opinion or shall reject them, with a reasoning attached.

(6) The Council shall be convened by the Fund's CEO, who is also the Council's Chairperson, no later than by 30 June each year. The Council shall establish its own operating rules and rules of procedure within the framework of this Act.

(7) The Fund, acting on behalf and in the interest of the public media service provider, shall conclude the agreements concerning the distribution of the linear media services of the public media service provider from its own budget. The provisions laid down in Paragraph (9) shall be applied to media service distribution agreements under which the public media service provider realizes any revenues in return for the distribution licence.

(8) The CEO shall report to the Board of Trustees concerning the activities of the public media service provider, and approval of the balance sheet and the profit and loss statement shall take place within the framework thereof. The CEO's report shall be submitted to the Board of Trustees together with the opinion of the Supervisory Board of the public media service provider.

(9) The public media service provider may engage in business activities if those serve to promote its public service objectives. Any profits generated may be used exclusively for provision or development of public media service. The right to pursue business activities – with regard to the activities performed by the Fund without remuneration in order to support public media services – may be assigned to the Fund. Any revenues generated from this by the Fund may be used only to realize the objectives of the public media service.

(10) The public media service provider cannot have a share in other media service providers and cannot set up foundations.

(11) The public media service provider shall keep a separate register for its contracts. This register shall include the current data allowing for the company identification of the contracting parties, as well as the services to be performed by each of the contracting parties and the consideration thereof.

(12) The public media service provider enjoys individually granted exemption from the payment of



duties and is not subject to corporate tax. For the purposes of Article 8 of Act CXXVII of 2007 on Value Added Tax (hereinafter referred to as: the VAT Act), the Fund and the public media service provider shall be considered as affiliated companies, which affiliated relationship may be joined by a new person by separate statutory provision only.

(13) Procurements taking place within the legal relations between the Fund and the public media service provider are not covered by the application scope of the Public Procurement Act.

(14) Having due regard to the provisions of this Act, the Media Council is responsible for determining the detailed rules, not regulated under law, governing the utilisation of the State owned assets, the ownership rights of which are exercised by the Fund, and the management of such assets, including the terms and conditions under which the public media service provider may use the specific asset elements and assets for the purpose of discharging its public service responsibilities.

### **The Special Labour Law Rules Applicable for the Employees Working in the System of Public Media Services**

**Article 108/A** (1) The rules laid down in Act I of 2012 on the Labour Code (hereinafter referred to as: the Labour Code) shall be applied in terms of the employees employed by the public media service provider and the Fund, subject to the deviations specified under Paragraphs (2)-(5) and Article 108/B.

(2) The activities of the public media service provider and the Fund related to media content services and news agency services shall be considered as activities performed on Sundays and non-working days as well, by their nature (based on their purpose).

(3) As far as the employees are concerned, having regard to the unique characteristics of the different posts of employment, the actual working time (duration of the work phases) spent with the given activity shall be taken into account for purpose of calculation of the working time ordered by the employer and determination of the standby-type nature of the given post of employment.

(4) Article 101 (3) of the Labour Code shall not be applied in terms of the employees.

(5) The maximum of four hundred hours of extraordinary work per calendar year can be ordered for the employees employed full time, based on the provisions of the collective bargaining agreement.

**Article 108/B** (1) Separate legislation shall define those posts of employment that are aimed to participate in the public media services and in the news agency activities of the public media service provider.

(2) The person employed in the post of employment affected by the legislation determined under Paragraph (1) shall be employed in a free work schedule. The nature of the work schedule shall not be affected by the compulsory availability arising from the unique nature of the post of employment or the work performed at the time or period determined by the employer.

(3) Under the employment contract, the parties may deviate from applying the free work schedule specified under Paragraph (2), based on their ex nunc agreement.

(4) As far as the employees employed under posts of employment affected by the piece of legislation specified in Paragraph (1) are concerned, the employer shall be obliged to determine the average number of hours per working day that can be recognised during the calendar year as working time required for preparation outside the workplace, in case of employees employed full time. As far as the employees employed part time are concerned, the working time required for preparation outside the workplace shall be recognised and taken into account in proportion to the ratio between the full time and the part time work stipulated under the employment contract. The preparation outside the workplace can be replaced by the employer with a proper possibility guaranteed at the workplace and during the working time.

(5) As far as the employees employed in posts of employment affected by the piece of legislation defined under Paragraph (1) are concerned, in deviation from the stipulations contained in Article 122

(2) of the Labour Code, the employer, when granting the ordinary leave of the employee, is not obliged to take into account the employee's request with respect to one quarter of their base leave, exceptionally, if justified, as long as this would materially jeopardise the employer's normal operations. The employer shall be obliged to notify the employee about this, without delay, and shall also specify when the employee can take their leave.

## ***PART FOUR*** ***SUPERVISION OF MEDIA SERVICES AND PRESS PRODUCTS***

### Chapter I THE NATIONAL MEDIA AND INFOCOMMUNICATIONS AUTHORITY

#### **General rules**

**Article 109** (1) The National Media and Infocommunications Authority (hereinafter as: Authority) is an independent regulatory body solely subject to the law.

(2) The Authority participates in the implementation of the Government's policy – as defined by law – in the areas of spectrum management and communications. Any function may be assigned to the Authority only by law or other legislation issued pursuant to law.

(3) The Authority comprises the following entities with independent powers: President of the National Media and Infocommunications Authority (hereinafter as: President), the Media Council of the National Media and Infocommunications Authority and the Office of the National Media and Infocommunications Authority.

(4) The President of the Authority reports to the Parliament on the activities of the Authority once every year.

(5) In relation to the communications sector, the Authority is responsible for ensuring – particularly in line with the objectives and basic principles of the Electronic Communications Act – the smooth and effective functioning and development of the communications market, safeguarding the interests of the users and of those pursuing communications activities, fostering the development and maintenance of fair and efficient competition within the electronic communications sector, and for the supervision of legal compliance of the conduct of organizations and persons pursuing communications activities.

(6) The Authority performs its tasks and exercises its powers independently, in compliance with applicable legislation.

(7) The communications regulatory powers of the Authority cannot be withdrawn in any way.

(8) The Government's public administration function pertaining to non-civilian spectrum management shall be provided for by the Office.

(9) *[not in effect]*

**Article 110** In relation to the communications sector and subject to separate legislation, the Authority shall:

- a) comment on legislative and amendment requests and proposals concerning its competence;
- b) assess and continuously analyse the functioning of the communications market and of related information technology markets;
- c) continuously evaluate the state of the communications market and prepare comparative analyses;
- d) conduct market analysis;
- e) proceed in connection with the fulfilment and breach of certain obligations imposed on the obliged service providers;
- f) take action in connection with any breach of communications related provisions, as well as in proceedings launched in relation to legal disputes arising from the conclusion of contracts;

g) perform regulatory tasks provided for under other pieces of legislation in respect of electronic communications and postal services;

h) as part of its management functions, the Authority shall exercise – in accordance with this Act and other pieces of legislation – the state ownership rights pertaining to radio frequencies and identifiers, and shall manage the radio frequencies and identifiers;

i) perform other regulatory and non-regulatory tasks defined by other pieces of legislation.

**Article 110/A** (1) The Authority shall establish the principles related to its personnel policy independently, in order to retain the specialist personnel with the special expertise and competences required for the performance of its duties as detailed under Articles 109-110.

(2) The Director General and Deputy Director General of the Authority, as well as the employees of the Authority, shall perform their activities within the framework of a public service legal relationship, and their legal relationship shall be governed by the provisions of the Act on Civil Servants applicable to civil servants, subject to the differences specified under this Act.

(3) The president of the Authority shall determine the system of the different posts of employment required for performance of the tasks of the Authority, the amount of the resources required for the performance of the tasks, and define, under the By-laws of the Authority, those employment positions not falling under Paragraph (2), where the employees perform their tasks under an employment relationship.

(4) The president of the Authority, within his/her own powers which cannot be transferred, shall decide upon the principles of the remuneration policy of the Authority, the fringe benefits, the basic salary, and any deviations thereof.

(5) The president of the Authority can determine a special personal remuneration to civil servants who are in an employment position requiring a special, unique expertise or to civil servants in more than one executive position. Personal remuneration can be granted up to the maximum of twenty percent of the active employee headcount of the Authority and can be withdrawn without the need for any explanations. The president of the Authority shall determine the possible rules restricting the employment of the persons in the above-mentioned posts of employment, applied upon termination of the legal relationship of these persons, and these rules shall be specified in detail in the employment document.

(6) The President of the Authority shall, on his/her own initiative, determine in the Public Service Policy of the Authority the detailed rules related to the performance assessment system and the related remuneration, recruitment and selection policies, as well as the planning and execution of the in-service training, courses, and individual development.

(7) The Authority, being an independent regulatory body, shall not be subject to the data provision obligation related to public administration personnel activities.

### **The President and Vice-President of the National Media and Infocommunications Authority**

**Article 111** (1) The President shall

a) perform the management of the National Media and Infocommunications Authority;

b) from the powers defined in Article 110, exercise the powers conferred upon the President by separate legislation;

c) submit the annual draft budget and annual institutional budget report of the Authority in accordance with Article 134;

d) propose amendments to legislation concerning communications and media services;

e) make decisions about the classification of data handled by the Authority in the course of performing its activities, in line with the provisions of the Act on the Protection of Classified Information.

(2) Further responsibilities of the President are the followings:

a) if elected as President of the Media Council, convene and chair the meetings of the Media Council;

b) if elected as President of the Media Council, arrange for the meetings of the Media Council to be prepared;

c) appoint the Vice-Presidents and exercise the employer's rights over them, including dismissal and removal;

d) appoint the Director General of the Office and exercise the employer's rights including dismissal and removal;

e) appoint, dismiss or remove the Deputy Directors General upon the Director General's proposal;

f) appoint, dismiss or remove the Media and Communications Commissioner and exercise the employer's rights;

g) adopt the Authority's By-laws;

h) represent the Authority, particularly when keeping contact and consulting with the European Commission and with regulatory authorities from Member States;

i) publish, by 28 February of each year, the annual work schedule of the Authority and key figures of its draft budget, and, by 30 June, the annual assessment of the Authority's financial management for the previous year;

j) outline, on a yearly basis, tasks to be carried out in connection with professional preparatory works;

k) notify the Minister responsible for electronic communications of any circumstances that may jeopardise the safety of communications and make recommendations for the measures deemed as necessary;

l) proceed before international organisations on behalf of the state as mandated;

m) sign cooperation agreements annually on behalf of the Authority with the consumer protection authority and the competition authority;

n) act as second-instance authority on the field of communications concerning the official matters of the Office defined by law;

o) *[not in effect]*

(3)-(5)

(6) The President may not be instructed with respect to his/her actions and decisions associated with the performance of his/her duties and exercise of powers. The President may not instruct the Office to take ad hoc decisions in respect of the Office's official matters defined by law.

**Article 111/A** (1) The President shall be appointed by the President of the Republic for a period of nine years, on the recommendation of the Prime Minister.

(2) A person meeting the following criteria may be appointed as President: a person who may be elected at the election of Members of Parliament, has no criminal record, is not banned from exercising an occupation corresponding to his/her activities, has a higher education degree and

a) has at least five years of work experience in the regulatory supervision of media services or press products, or the regulatory supervision of infocommunications, or

b) with respect to a subject-matter relating to media or infocommunications he/she has

ba) an academic degree recognised in Hungary, or

bb) at least ten years of experience as a lecturer in an institution of higher education.

(2a) The following activities shall be considered, in particular, as a work experience as per Paragraph (2) a):

a) regulatory activity in management or administrative position at the Office or at the National Communications Authority, in the field of infocommunications,

b) participation as a judge, public prosecutor or legal representative in appeal procedures related to the decisions of the Office or the National Communications Authority,

c) activity related to the supervision of media services, in administrative or management position at the National Radio and Television Commission, at its bodies or at the Media Council,

d) participation as a judge, public prosecutor or legal representative in appeal procedures related to the decisions of the National Radio and Television Commission or its bodies,

e) membership in the Board of Trustees of the Hungarian Radio Public Foundation, the Hungarian Television Public Foundation, or the 'Hungária' Television Public Foundation, in accordance with Act I of 1996 on Radio and Television Broadcasting, or in any of their controlling bodies, or in the Board of Trustees as per Article 85.

(3) The President, once his/her mandate expired, cannot be elected again.

(4) The Prime Minister, prior to making his/her recommendation as per Paragraph (1), at least sixty days prior to expiry of the mandate of the President in office, or within fifteen days from termination of the mandate in any other case when the President's mandate is terminated, shall request the Board of Public Services, the National Council for Communications and Information Technology, as well as the professional, interest representative and self-regulatory bodies of the communications service providers, media content providers, media service distributors and journalists (having a national operating area and at least five years of operation) to make nominations for the candidate for President.

(5) The requested organisations shall make their nominations in writing and shall describe the professional career of the proposed person, taking into account the professional criteria set forth under Paragraphs (2) and (2a) as well, and they shall also state the reasons for their nominations. The organisations invited to make nominations are allowed to disclose to the public the name of their presidential candidate, subject to the candidate's consent. The Prime Minister shall also hold direct consultations to learn more details about the proposals made by the invited organisations, either personally or through a state executive appointed by him/her.

(6) The Prime Minister shall name his/her candidate after considering the nominations made in the course of the consultations.

**Article 112** (1) The President is entitled to appoint two Vice-Presidents for an indefinite term. The provisions of Paragraphs (2) and (2a) of Article 111/A shall be applicable to the appointment of Vice-Presidents, as appropriate.

(2) The President may be substituted by the Vice-President if the conditions specified in the By-laws are met. The President may delegate his/her second-instance regulatory decision-making powers to the respective Vice-President by virtue of an appropriately detailed authorisation. When acting within this delegated competence, the Vice-President may not be instructed in relation to making second-instance regulatory decisions. Other tasks of the Vice-President shall be defined by the By-laws.

(3) The President shall be entitled to the remuneration and allowances of Ministers, whereas the Vice-President shall be entitled to the remuneration and allowances of State Secretaries. Any issues not regulated by this Act shall be governed by the provisions of other laws pertaining to the legal status of Ministers as far as the President is concerned, and those pertaining to the legal status of State Secretaries as far as the Vice-President is concerned.

(4) Rules applicable to those engaged in public service relationship shall be applicable to the social security status of the President and the Vice-President. The term of their mandate shall be regarded as time spent in public service relationship and pensionable service time.

(5) The President shall – immediately upon being appointed – present an official certificate in verification of his/her clean criminal record and not being banned from occupations aligned with the scope of his/her activities. Should the President fail to fulfil this certification obligation for reasons attributable to him/her, the legal sanctions of conflict of interest shall apply.

(6) The Prime Minister shall be responsible for handling the President's personal data disclosed pursuant to Paragraph (5) until the end of the President's mandate, and may call upon the President at



any time to verify the data outlined in Paragraph (5).

(7) The provisions of Paragraph (5) shall be applied to the Vice-President, whereas the powers defined under Paragraph (6) shall be exercised by the President in relation to the Vice-President.

**Article 113** (1) The President's mandate shall be terminated if

- a) his/her mandate expires;
- b) he/she resigns;
- c) he/she dies;
- d) he/she is dismissed by the President of the Republic in accordance with Paragraph (2);
- e) if he/she is not elected as President of the Media Council by the Parliament within 30 days from his/her appointment, or, if such appointment takes place outside the parliamentary session, within 15 days from the starting date of the forthcoming parliamentary session.

(2) The President of the Republic shall dismiss the President, if

- a) he/she fails to eliminate the conflict of interest as outlined in Article 118 (1) within thirty days of the date of appointment or the emergence of the ground for the conflict of interest;
- b) if as a result of criminal proceedings instituted against the President, the President is pronounced guilty in a final judgement of the court sentencing the President to imprisonment, or barring him/her from exercising an occupation aligned with his/her activities as President;
- c) the President is placed under guardianship affecting his/her legal capacity;
- d) the President fails to fulfil the responsibilities arising from his/her mandate for more than six months for reasons attributable to him/her.

(2a) The President of the Republic shall pass his/her decision as per Paragraph (2) based on the recommendation of the Prime Minister.

(3) In case the President's mandate is terminated pursuant to Paragraph (1) (a) or (b), the President shall be eligible to severance pay equivalent to two months' remuneration at the time of termination. If the President has been in office for less than three years, then the prohibition outlined under Paragraph (8) shall be applicable for six months after the termination of the President's mandate, and in this case the President shall be entitled to severance pay equivalent to one month's remuneration.

(4) The Vice-President's mandate shall be terminated, if

- a) he/she resigns;
- b) he/she dies;
- c) he/she is dismissed by the President pursuant to Paragraph (5);
- d) he/she is removed by the President pursuant to Paragraph (6);
- e) based on the mutual agreement of the President and the Vice-President.

(5) The President shall dismiss the Vice-President, if

- a) he/she fails to eliminate the conflict of interest as outlined in Article 118 (1) within thirty days of the date of appointment or the emergence of the ground for the conflict of interest;
- b) if as a result of criminal proceedings instituted against the Vice-President, the Vice-President is pronounced guilty in a final judgement of the court sentencing the Vice-President to imprisonment, or barring him/her from exercising an occupation aligned with his/her activities as Vice-President.

(6) The President may also terminate the Vice-President's mandate by removal. No justification for the removal shall be required.

(7) In case the Vice-President's mandate is terminated pursuant to Paragraph (4) (a) or (d), the Vice-President shall be eligible to severance pay equivalent to two months' remuneration at the time of termination. If the Vice-President has been in office for less than three years, then the prohibition outlined under Paragraph (8) shall be applicable for six months after the termination of the Vice-President's mandate, and in this case the Vice-President shall be entitled to severance pay equivalent to one month's remuneration.

(8) For one year after the termination of their mandate, the President and the Vice-President

- a) may not be engaged in any form of employment or other work-related relationship with a

business association;

b) may not establish regular business relationship in the capacity of executive officer or company owner with a business association; and

c) may not acquire an ownership share in a business association;

the rights or lawful interests of which were affected by his/her decisions while serving as President or Vice-President.

(9) With regard to the employment related prohibition affecting the operational sector set forth in Paragraph (8), the President and the Vice-President, upon termination of their mandate, shall be entitled to a compensation, the rate of which shall be the sum of the previous 12 months' net – that is reduced by personal income tax – salary paid by the Authority. The compensation shall be paid from the budget of the Authority. The flat rate compensation determined this way shall be tax-free in the context of compensating for damage. The same provision shall be applicable in relation to the prohibition laid down in Article 129 (9) which is applicable upon the termination of the mandate of the President and members of the Media Council.

(10) If the mandate of the Vice-President is terminated under Paragraph (4) (d), the provisions applicable upon the withdrawal of the executive mandate during the public service relationship shall be applied to the termination of the mandate.

### **Office of the National Media and Infocommunications Authority**

**Article 114** (1) The Office shall be headed by the Director General appointed by the President for an indefinite period.

(2) From the powers defined in Article 110, the Office shall exercise powers that are conferred upon the Office by separate legislation, furthermore it shall fulfil its functions conferred upon it by laws or by the President under the framework of this Act and other legislation.

(3) The Office shall provide the President, the Vice-Presidents, the Media Council, and members of the Media Council with professional assistance for the performance of their duties.

(4)-(5) *[not in effect]*

### **The Director General and Deputy Director General of the National Media and Infocommunications Authority**

**Article 115** (1) The Director General shall be appointed by the President.

(2) The provisions of Paragraphs (2) and (2a) of Article 111/A shall be applicable to the appointment of the Director General, as appropriate.

(3) The Director General shall be entitled to the remuneration and allowances of State Secretaries.

(4) The Director General may not be instructed with respect to his/her first-instance powers in regulatory decision-making.

(5) The mandate of the Director General shall be terminated, if

a) he/she resigns;

b) he/she dies;

c) he/she is dismissed by the President pursuant to Paragraph (6);

d) he/she is removed by the President pursuant to Paragraph (7);

e) based on the mutual agreement of the President and the Director General.

(6) The President shall dismiss the Director General, if

a) he/she fails to eliminate the conflict of interest as outlined in Article 118 (1) within thirty days of the date of appointment or the emergence of the ground for the conflict of interest;

b) if as a result of criminal proceedings instituted against the Director General, the Director General is pronounced guilty in a final judgement of the court sentencing the Director General to imprisonment, or barring him/her from exercising an occupation aligned with his/her activities as Director General.

(7) The President may also terminate the Director General's mandate by removal. No justification for the removal shall be required.

(8) For a period of one year following the termination of his/her mandate, the Director General

a) may not be engaged in any form of employment or other work-related relationship with a business association;

b) may not establish regular business relationship in the capacity of executive officer or company owner with a business association; and

c) may not acquire an ownership share in a business association;

the rights or lawful interests of which were affected by his/her decisions while serving as Director General.

(9) In case the Director General's mandate is terminated pursuant to Paragraph (5) (a) or (d), the Director General shall be eligible to severance pay equivalent to two months' remuneration at the time of termination. If the Director General has been in office for less than three years, then the prohibition outlined under Paragraph (8) shall be applicable for six months after the termination of the Director General's mandate, and in this case the Director General shall be entitled to severance pay equivalent to one month's remuneration.

(10) The provisions of Article 112 (5) shall be applicable to the Director General, and the powers defined in Article 112 (6) shall be exercised in respect of the Director General by the President.

**Article 116** Responsibilities of the Director General shall include the following:

a) perform the organisational and professional leadership of the Office, with the exception of the organisational units subordinated directly to the President, and act as the President's deputy in respect of the management of the Office;

b) exercise the powers conferred upon the Director General by separate legislation from those defined in Article 110;

c) ensure the efficient operation of the Authority's organisation;

d) make recommendations to the President for the appointment, dismissal and removal of Deputy Directors General, exercise employer's rights in relation to his/her Deputies and the employees of the Office, with the exception of organisational units subordinated directly to the President;

e) ensure the publication of information defined in this Act;

f) attend meetings of the Media Council with consultative powers on the basis of the invitation from the President of the Media Council;

g) ensure that the Office provides professional assistance to the extent and in the manner as defined by the President – in case of the Media Council and the members thereof, as the President of the Media Council – to the President, the Vice-Presidents, the Media Council and members of the Media Council as necessary for the performance of their duties;

h) fulfil the duties and exercise the powers conferred upon him/her by law or by the President – as the President of the Authority and as the President of the Media Council – within the scope of this Act.

**Article 117** (1) Upon the Director General's proposal the President shall be entitled to appoint Deputy Directors General. The number of Deputy Directors General and the scope of their responsibilities shall be defined in the By-laws of the Authority.

(2) The person who can be elected at the election of Members of Parliament, has a clean criminal record, is not banned from exercising an occupation corresponding to his/her activities, possesses a higher education degree and at least three years of work experience in programme distribution, media services, regulatory supervision of the media services, electronic communications, or in economics,

social science, law, technology or management (including membership of management bodies) or in administration with a focus on the regulatory supervision of communications, can be appointed as Deputy Director General.

(3) The Deputy Director General is entitled to the remuneration and allowances of State Secretaries.

(4) The provisions of Article 115 (5)-(10) pertaining to the Director General shall be also applicable to the Deputy Director General.

### **Conflict of Interests Rules**

**Article 118** (1) The following persons shall not be eligible for the position of President, Vice-President, Director General and Deputy Director General:

a) the President of the Republic, the Prime Minister, members of the Government, State Secretaries, the State Secretary for Public Administration, Deputy State Secretaries, the Mayor of Budapest, the Deputy Mayor of Budapest, Mayors, Deputy Mayors, chairpersons of county-level general assemblies and their deputies, Members of Parliament, parliamentary spokesperson for ethnic minorities, Members of the European Parliament;

b) the Chairperson and members of the Board of Trustees of the Public Foundation for Public Service Media and of the Public Service Board, the CEO and Deputy CEO of the Fund, the Chairperson, Deputy Chairperson or members of the National Council for Communications and Information Technology, the CEO of the public media service provider and the Chairperson and members of the Supervisory Board thereof, members of the Media Council, the President of the Media Council with the exception of the President of the Authority, and persons engaged in any other work-related relationship with any of the foregoing organisations;

c) local or county-level municipal representatives, government officials, officials of the national or local organisations of political parties, and persons engaged in any work-related relationship with political parties;

d) executive officers, management board members, supervisory board members of communications or media service providers, media service distributors, advertising agencies, press publishing and newspaper distribution companies;

e) persons engaged in any form of employment or other work-related relationship with a communications or media service provider, programme distributor, media service distributor, advertising agency, press publishing and newspaper distribution company;

f) persons holding direct or indirect ownership share in an undertaking providing communications or media services, pursuing programme distribution, media service distribution, press publishing, advertising agency or newspaper distribution activities;

g) direct and indirect owners of business associations – in case of public limited company, with an ownership share of more than five percent – and persons engaged in any work-related relationship with the such companies, which are involved with the organisations defined in Point (d) under an agency or service agreement;

h) the close relatives of the persons under Points (a)-(b) and (d).

(2) For the purposes of Paragraph (1) (e), other work-related relationships entailing scientific work, the publication of scientific results and the dissemination of scientific information shall not be regarded as grounds for conflict of interest.

(3) The President, the Vice-President, the Director General and Deputy Director General may not be engaged in party politics or make representations on behalf of political parties.

### **Report of the President of the National Media and Infocommunications Authority**

**Article 119** (1) By 31 May of each year, the President of the Authority shall submit a report to the Parliament to give account of the activities of the Authority during the previous year. In this report the President shall:

- a) evaluate the functioning and development of the electronic communications market;
- b) evaluate the decisions adopted in protection of the interests of providers and users of electronic communications services, as well as measures taken in the electronic communications sector to promote the development and maintenance of fair and effective competition;
- c) provide information on the supervision of compliance by entities and individuals engaged in electronic communications with applicable legislation; and
- d) evaluate the consequences of its management of state-owned limited resources.

(2) The report shall be published both in printed format and on the websites of the Authority and of the Ministry overseen by the Minister responsible for electronic communications.

### **The National Council for Communications and Information Technology**

**Article 120** (1) The National Council for Communications and Information Technology (hereinafter as: NHIT) is a counselling and advisory body to the Government on information technology and communications related matters.

(2) The NHIT shall consist of five members. The Chairperson and Deputy Chairperson of NHIT shall be appointed and dismissed by the Prime Minister.

(3) Members of the NHIT – including its Chairperson and Deputy Chairperson – shall be appointed from persons having at least five years of experience in the field of communications or information technology.

(4) Of all NHIT members

- a) two members shall be delegated by the Media Council; and
- b) one member shall be delegated by the Hungarian Academy of Sciences.

(5) The NHIT shall be solely subject laws and its members may not be instructed with respect to their activities.

(6) The Chairperson and Deputy Chairperson as well as members of the NHIT shall be mandated for four years.

(7) Vacant seats shall be filled by the authorized organisation or person within thirty days.

(8) Government officials and civil servants too are eligible for the position of NHIT's Chairperson, Deputy Chairperson or member.

(9) The remuneration of the Chairperson of NHIT shall be equal to sixty-five percent of the remuneration of State Secretaries, the remuneration of the Deputy Chairperson of NHIT shall be equal to sixty percent of the remuneration of State Secretaries, and the remuneration of the members of the NHIT shall be equal to fifty-five percent of the remuneration of State Secretaries during the period between their appointment and the termination of their mandate, and the Chairperson, Deputy Chairperson and members shall also be entitled to a reimbursement of expenses.

**Article 121** (1) On the field of information technology, communications and the media related matters, the NHIT shall provide its opinion to the Government on

- a) the program for building an information society and strategic decisions concerning the promotion of information culture and information society;
- b) setting directions for research and development;
- c) decisions targeting dissemination of social attitudes and culture; and
- d) developing the regulatory framework of the communications market, fostering equal opportunities for market players;



e) ensuring the harmonisation of civil and non-civilian spectrum management;  
f) the Hungarian position to be represented at international conferences concerning radio communications; and

g) strategic submissions for regulating the infrastructure of the information society, and decisions concerning the program for building an information society.

(2) The NHIT shall provide the Government its opinion on:

a) the drafts of Government and Ministerial decrees;

b) all submissions, ad hoc decisions and draft legislation on communications and information technology, upon request from the Government, the Prime Minister, the Minister responsible for electronic communications, or the Minister responsible for information technology;

c) strategic submissions for regulating the infrastructure of the information society, and the program for building an information society;

in relation to which any submission may be presented to the Government after obtaining the comments by the NHIT and with the opinion of the NHIT only.

(3) The Chairperson of the NHIT shall participate with consultative powers in state executive meetings preceding Government meetings and, by invitation, on Government meetings discussing submissions mentioned in Paragraphs (1)-(2).

(4) The Chairperson of the NHIT may invite with consultative power the representatives of organizations interested in the utilisation of examined frequency bands and services provided thereon.

(5) In line with the Government program on the field of information technology, communications, and media, the NHIT, in relation to the topics mentioned in Paragraphs (1)-(2), may make independent recommendations and initiatives toward the Government, and toward bodies, other organizations controlled or supervised by the Government or a Minister, in order to increase the efficiency of the performance of the public functions concerning such topics. The head of the body or organization shall notify the Chairperson of the NHIT about its comments on the independent recommendation or initiative within 30 days.

(6) Upon invitation by the Government or the Prime Minister, the NHIT shall, on the basis of communication, IT scientific, practicality, and economic considerations, examine the EU and other tenders of bodies and other organization controlled by the Government or a Minister and the implementation of such tenders, and their other projects and procurements as well, in the field of communications and information technology. The opinion of NHIT prepared upon completion of the examination shall be sent to the Prime Minister. On the basis of the examination, the NHIT may also submit independent recommendations and initiatives under Paragraph (5). The bodies and other organizations controlled or supervised by the Government or a Minister shall cooperate with NHIT in the course of completing the examination.

(7) NHIT shall have quorum when more than half of its members are present, and at least the Chairperson or Deputy Chairperson is also present. With the exception of decisions regarding conflicts of interest, the NHIT shall adopt its decisions by majority voting, and in case of parity of votes, the vote of the Chairperson shall decide.

(8) NHIT shall establish its own operational rules.

(9) The resources needed for the operations of the NHIT shall be ensured from the budget of the Authority. These resources may not be reallocated for any other purpose.

(10) The financial operation of the NHIT shall be audited by the State Audit Office. The NHIT shall report on the fulfilment of its duties to the relevant Committee of the Parliament on an annual basis.

**Article 122** (1) The NHIT's Office (hereinafter as: NHIT Office) shall be an organizational unit of the Authority, the head of which shall be entitled to use the title of head of office.

(2) The NHIT Office shall perform tasks related to the operations of the NHIT, and shall perform the necessary administrative activities in relation thereto.

(3) The Policy of Functions and Competences of the NHIT Office shall be approved by the President of the Authority, with the consent of Chairperson of the NHIT.

(4) The administrative activities of the NHIT Office shall be overseen by the head of the NHIT Office, in accordance with decisions of the NHIT and with the instructions of the Chairperson of the NHIT.

(5) Based on Article 121 (1)-(2), the NHIT Office shall prepare for the NHIT preparatory documents for negotiating and decision-making concerning the opinion to be provided by the NHIT to the Government or the Prime Minister.

(6) The Chairperson of the NHIT shall directly control the professional activities of the Office to be carried out in relation to drafting preparatory documents for negotiating and decision-making associated with the tasks defined in Article 121 (1)-(2).

(7) Of employer's rights pertaining to the head of the NHIT Office, the right of appointment and terminating the public service relationship shall be exercised by the President of the Authority based on the proposal of the Chairperson of the NHIT; in all other respects, the employer's rights shall be exercised by the Chairperson of the NHIT.

## Chapter II

### THE MEDIA COUNCIL OF THE NATIONAL MEDIA AND INFOCOMMUNICATIONS AUTHORITY

#### Legal Status and Organisation of the Media Council

**Article 123** (1) The Media Council shall be a body of the Authority with independent powers under the supervision of the Parliament and having legal personality. The Media Council shall be the legal successor of the National Radio and Television Commission.

(2) The Media Council and its members shall be solely subject to laws and may not be instructed with respect to their activities.

(3) The registered office of the Media Council shall be in Budapest.

(4) The Office shall be the administrative unit of the Media Council.

(5) On the basis of a mandate given through the Office, the Media Council and its members may also employ external experts.

#### Electing the Media Council

**Article 124** (1) The President and the four members of the Media Council shall be elected by the Parliament for a period of nine years by simultaneous voting by list, except if the mandate of the President is terminated for any of the reasons specified under Points *b)-e)* of Paragraph (1) of Article 113, or if the mandate of the member is terminated for any of the reasons specified under Points *b)-f)* of Paragraph (1) of Article 129. In the latter case, the Parliament shall vote separately regarding the president or member candidate.

(2) A person meeting the following criteria may be elected president or member of the Media Council: a person who may be elected at the election of Members of Parliament, has no criminal record, is not banned from exercising an occupation corresponding to his/her activities, has a higher education degree and

a) has at least five years of work experience in the regulatory supervision of media services or press products, or the regulatory supervision of infocommunications, or

b) with respect to a subject-matter relating to media or infocommunications he/she has

ba) an academic degree recognised in Hungary, or

bb) at least ten years of experience as a lecturer in an institution of higher education.

(2a) The following activities shall be considered, in particular, as a work experience as per Paragraph (2) a):

a) regulatory activity in management or administrative position at the Office or at the National Communications Authority, in the field of infocommunications,

b) participation as a judge, public prosecutor or legal representative in appeal procedures related to the decisions of the Office or the National Communications Authority,

c) activity related to the supervision of media services, in administrative or management position at the National Radio and Television Commission, at its bodies or at the Media Council,

d) participation as a judge, public prosecutor or legal representative in appeal procedures related to the decisions of the National Radio and Television Commission or its bodies,

e) membership in the Board of Trustees of the Hungarian Radio Public Foundation, the Hungarian Television Public Foundation, or the 'Hungária' Television Public Foundation, in accordance with Act I of 1996 on Radio and Television Broadcasting, or in any of their controlling bodies, or in the Board of Trustees as per Article 85.

(3) Media Council members shall be nominated

a) not earlier than sixty and not later than thirty days before the expiry of the mandate of members,

b) with the exception of cases outlined in Point (a), within thirty days from gaining knowledge of the termination of a mandate,

by the unanimous vote of an ad hoc committee consisting of one member of each parliamentary faction (hereinafter as: nominating committee).

(4) In each voting round, members of the nominating committee shall have a number of votes corresponding to the headcount of the parliamentary faction they were appointed by.

(5) The parliamentary decision instituting the nominating committee shall specify the time period available for the parliamentary factions to appoint members to the nominating committee. The nomination process may commence even if a faction fails to appoint a member to the nominating committee within the deadline set by the parliamentary decision.

(6) If, in the case outlined under Paragraph (3) (a), the nominating committee fails to nominate four members within the stated deadline, the nominating committee may propose a candidate in the second round of nomination with at least a two-thirds majority of votes.

(7) If, in the case outlined under Paragraph (3) (a), the nominating committee fails to nominate four members within eight days in the second nomination round, its mandate shall be terminated and a new nominating committee shall be set up.

(8) If, in the case outlined under Paragraph (3) (b), the nominating committee fails to nominate a member within the deadline stated therein, the nominating committee may propose a candidate with at least a two-thirds majority of votes.

(9) If, in the case outlined under Paragraph (3) (b), the nominating committee fails to nominate four members within eight days in the second nomination round, its mandate shall be terminated and a new nominating committee shall be set up.

**Article 125** (1) The President of the Authority appointed by the President of the Republic shall become a candidate for the President of the Media Council by virtue and from the moment of appointment.

(2) The President and members of the Media Council shall take office upon being elected or – if elected before the termination of the mandate of the predecessor – upon the termination of the mandate of the predecessor.

(3) If the mandate of the President of the Authority is terminated pursuant to Points *b)-d)* of Paragraph (1) of Article 113, his/her mandate as President of the Media Council shall be terminated simultaneously as well. In the event that the mandate of the President of the Authority expires the provisions of Article 216 (8) shall be applied. The new President of the Authority appointed by the President of the Republic shall become a candidate for the President of the Media Council by the fact

and from the moment of appointment. His/her election shall be decided upon with a vote by list or with a separate vote in line with Article 124 (1).

(4) *[not in effect]*

(5) The President and members of the Media Council may not be re-elected.

(6) The mandate of a new member shall be for the period remaining from the mandate of previously elected members of the Media Council.

(7) The duration of the mandate of the President of the Media Council corresponds to the duration of the mandate of the President of the Authority, except for the case specified under Article 216 (8).

**Article 126** (1) Once elected, members of the Media Council shall promptly verify to the President of the Media Council, by presenting an official certificate, that they have a clean criminal record and are not barred from exercising an occupation aligned with their activities as members of the Media Council.

(2) The President of the Media Council shall handle the personal data of Media Council members that were disclosed to him/her pursuant to Paragraph (1) until the termination of their respective mandates and may call upon members at any time to verify the data under Paragraph (1).

(3) Provisions of Paragraphs (1)-(2) shall apply to the President of the Media Council, with the deviation that the verification obligation of the President of the Media Council defined under Paragraph (1) shall be performed toward the Media Council, whereas the right defined under Paragraph (2) shall be exercised by the Media Council. The President of the Media Council shall not be involved in exercising the power of the Media Council defined in this Paragraph.

### **Conflict of Interests Rules**

**Article 127** (1) The conflict of interest rules defined in Article 118 (1) with respect to the President and members of the Media Council, the President and Vice-President of the Authority, and the Director General and Deputy Director General, as well as the grounds for exclusion defined in Article 118 (3) shall be applied as appropriate.

(2) With respect to members of the Media Council, employment relationships and other work-related relationship entered into with publishers or founders of press products for the performance of scientific activities, the publication of scientific results and the dissemination of scientific information shall not constitute a conflict of interests.

### **The Duties of Members of the Media Council**

**Article 128** (1) Members of the Media Council shall keep all and any classified data and business secrets disclosed to them in relation to the fulfilment of their duties.

(2) The President and member of the Media Council shall take an oath according to the provisions of the Act on the Oath and Pledge of Certain Public Law Officials.

(3) Members of the Media Council shall make an asset declaration in accordance with the rules applicable to Members of Parliament, in the first instance within thirty days upon being elected. Such asset declarations shall be handled, registered and controlled in accordance with rules pertaining to the handling, registration and control of the asset declarations of Members of Parliament.

### **Termination of the Mandate of Members of the Media Council**

**Article 129** (1) The mandate of the Media Council member shall be terminated upon

a) the expiry of the Media Council's term of mandate;

- b) his/her resignation;
- c) the establishment of a conflict of interest;
- d) his/her dismissal;
- e) his/her exclusion;
- f) the member's death.

(2) The mandate of the President or a member of the Media Council shall be terminated on the ground for conflict of interests, if such a ground for conflict of interests arises in relation to the President or member, or if the President or member refuses or fails to fulfil his/her obligations of making an asset declaration, or if his/her asset declaration contains misrepresentations of important data or facts, or if he/she fails to meet the verification obligation under Article 126 (1) for reasons attributable to him/her.

(3) If a ground for conflict of interests is established in relation to the President or a member of the Media Council, and if the ground for conflict of interests is not eliminated within thirty days of the conflict of interests taking effect or the date of the meeting establishing the conflict of interests, the plenary session of the Media Council shall establish, by way of a decision, the termination of the Media Council membership of the President or member. Once the decision establishing the conflict of interest is adopted, the President or member of the Media Council may no longer exercise his/her powers associated with his/her position.

(4) Termination of the mandate of a member of the Media Council shall be established and announced by the President of the Media Council in case of Paragraph (1) (b) and (f), and by the plenary session of the Media Council in case of Paragraph (1) (c), (d) and (e). Termination of the mandate of the President of the Media Council shall be established and announced by the plenary session of the Media Council.

(5) The mandate shall be terminated by dismissal, if the President or member of the Media Council is placed under guardianship affecting his/her legal capacity.

(6) The mandate shall be terminated by exclusion, if

a) the President or a member of the Media Council fails to meet his/her responsibilities arising from the position for more than six months for reasons attributable to him/her,

b) as a result of criminal proceedings instituted against the President or member of the Media Council, the President or member is pronounced guilty in a final judgement of the court sentencing the President or member to imprisonment, or barring him/her from exercising an occupation aligned with his/her activities.

(7) If the session of the Media Council decides on a conflict of interests, dismissal or exclusion, the President or member affected may not take part in the voting process, and the unanimous decision of those entitled to vote is required in such matters. If unanimous decision is not reached on the subject matter even in a repeated voting procedure, the President of the Media Council shall recommend to the Parliament to decide on the matter. In such cases, the Parliament shall adopt a decision on the conflict of interests, dismissal or exclusion.

(8) If the proceedings outlined under Paragraphs (3), (6) and (7) concern the President of the Media Council, the President's powers shall be exercised by a member designated in the procedural rules.

(9) For one year after the termination of their mandate, the President or member of the Media Council

a) may not be engaged in any form of employment or other work-related relationship with a business association;

b) may not establish regular business relationship in the capacity of executive officer or company owner with a business association; and

c) may not acquire an ownership share in a business association;

the rights or lawful interests of which were affected by his/her decisions while serving as President or member of the Media Council.



(10) If the mandate is terminated pursuant to Paragraph (1) (a) or (b), the President or member of the Media Council shall be eligible to severance pay equivalent to two months' remuneration at the time of termination. If the President or member has been in office for less than three years, the prohibition outlined under Paragraph (9) shall be applicable for six months from the termination of the mandate, and in this case the President or member shall be entitled to severance pay totalling one month's remuneration.

### **Remuneration of the Members of the Media Council**

**Article 130** (1) The President of the Media Council shall be entitled to a remuneration equal to sixty percent of the remuneration of Ministers and to the reimbursement of expenses.

(2) Members of the Media Council shall be entitled to a remuneration equal to seventy-five percent of the remuneration of State Secretaries and to the reimbursement of expenses.

### **Operation of the Media Council**

**Article 131** (1) The Media Council shall set its own rules of procedure, which shall be published in the Hungarian Gazette.

(2) If the President of the Media Council is unable to attend a meeting of the Media Council due to being detained elsewhere or if the Media Council does not have an elected President, the powers and responsibilities of the President and representation of the Media Council shall be performed by the members of the Media Council in turn, in the way defined in the procedural rules. The member performing the tasks of the President may participate in voting.

### **Responsibilities of the Media Council**

**Article 132** In accordance with Articles 182-184 the Media Council shall:

- a) oversee and guarantee the freedom of the press under this Act and the Press Freedom Act;
- b) ensure the performance of tasks related to the tendering and contract awarding procedure for media service provision rights using state-owned limited resources made available for media services;
- c) perform the supervisory and control tasks prescribed by this Act – by recording programme flows or programmes or examining the programme flows recorded by the media service provider, or by making official requests;
- d) operate a programme flow monitoring and analysis service through the Office;
- e) express its opinion regarding draft legislation on media and communications;
- f) review regularly compliance with public contracts concluded with it;
- g) elaborate official positions and proposals with respect to the theoretical aspects of developing the Hungarian system of media services;
- h) initiate proceedings with respect to consumer protection and the prohibition of unfair market practices;
- i) prepare a report to the European Commission on the fulfilment of obligations with regard to programme quotas;
- j) be entitled to initiate amendments to this Act as may be necessary vis-à-vis the Minister responsible for audiovisual policy;
- k) undertake a pioneering role in developing media literacy and media awareness in Hungary and, in this context, coordinate the activities of other state actors in the area of media literacy, assist the Government in drafting its upcoming interim report to the European Union on the subject matter;
- l) perform other tasks defined by this Act and by other legislation issued under the authorization of

this Act.

### **The Report of the Media Council**

**Article 133** (1) By 31 May of each year, the Media Council shall submit a report to the Parliament to give account of its activities for the previous year. In this report it shall evaluate:

a) the state of the freedom of speech, expression and the press, as well as balanced information provision;

b) changes in the ownership status of media service providers and media service distributors;

c) the status of spectrum management serving to satisfy needs for media services;

d) the economic situation and changes in the financial conditions of media services.

(2) The report shall be published both in printed format and on the websites of the Authority and the Ministry overseen by the Minister responsible for audiovisual policy.

### **Financial Management of the Authority and the Media Council**

**Article 134** (1) The Authority shall manage its finances in accordance with the legislation applicable to the financial management of budgetary entities as appropriate, shall be entitled to manage state assets under statutory provisions applicable to central budgetary entities, it shall cover costs incurred in connection with the fulfilment of its duties from its own revenues and from central budget funding, and its accounts shall be managed by the Hungarian State Treasury. Every year, the Authority may set aside a reserve from its own revenues defined under Paragraph (4) – with the exception of fines – up to twenty-five percent of its effective revenue for the subject year. The reserve thus generated may be used in subsequent years to finance the Authority's operations and the fulfilment of its duties but may not be allocated for any other purpose.

(2) The consolidated budget of the Authority shall be approved by the Parliament in the form of separate legislation in accordance with the provisions of this Act, relying on resources specified under Paragraph (4), and Article 136 (3), which legislation shall also regulate the utilisation of residual amounts, if any, that may have been generated in the Authority's budget for the previous year – with the exception of reserves referred to under Paragraph (1) and residual amounts upon which a commitment had been established by 31 December of the same fiscal year when they were generated. Residual amounts earmarked by way of a commitment by 31 December of the same fiscal year when they were generated may be used in accordance with the terms set out in the legal statement serving as the basis for the commitment. The President shall be entitled to make reallocations between target expenditures stated in the already approved consolidated budget, with the provision that the authorisation of the Media Council shall be obtained for reallocations affecting the budget of the Media Council. Within the consolidated budget of the Authority, the Media Council shall enjoy financial independence as described in Article 135.

(3) The Parliament's budgetary committee shall submit to the Parliament the draft law comprising the Authority's consolidated budget by 31 October of the year preceding the subject year – based on the proposal sent by the President by 15 September, which includes the draft budget of the Media Council as approved by the Media Council. The Authority and the Media Council shall operate on the basis of their previously approved budget until the new budget is approved.

(4) The Authority's own revenue shall comprise frequency charges, fees received for the booking and use of identifiers as well as for regulatory procedures; it shall also include supervisory fees, which shall be used to ensure the efficient and highly professional operation of the Authority. Statements indicating the inflow and utilisation of own revenue, and the utilisation of central budget funding shall be published by the Authority on its website every year.

(5) The amount of frequency charges and fees payable for the booking and use of identifiers shall

be regulated by the President of the National Media and Infocommunications Authority in a decree. Portions of frequency charges, that were not used by the Authority for operating purposes – under the Act defined under Paragraph (2) – or were not used to generate reserves as outlined under Paragraph (1), shall be paid into the Fund as instructed by the President. The President shall designate in his/her instructions the public purpose for which, and the manner, in which the amount paid into the Fund in accordance with this Paragraph may be used. Any amount transferred pursuant to this Paragraph may be used by the Fund strictly as instructed and for the purpose designated by the President. The CEO of the Fund may, in the course of utilising such amounts, request the President to amend the ordained purpose of use or utilisation rules, if necessitated by public interests. The President may reject or approve either wholly or partially the request of the CEO of the Fund, or may specify a new purpose of public interest or new utilisation rules. If the amount transferred is used by the Fund in violation of the instructions of the President, the Fund, upon notice by the President, shall reimburse the corresponding amount to the Authority without delay. The Authority shall generate reserves from such refunds, which, based on the President's decision, may be used to subsidise the Fund by designating a new purpose in the public interest, or may be used – wholly or partially – directly for a public purpose linked to communications and related markets, or for improving the living standards of consumers. With the exception of subsidies financed from reserves, the Authority shall complete such payments by 31 March of the year following the subject year. Parts of frequency charges earmarked by the President by 31 December of the subject year for payment into the Fund, and the reserves generated in accordance with this Paragraph – also in view of the provisions of Paragraphs (2) and (12) – shall not be deemed as effective residual amounts.

(6) A supervisory fee shall be paid by electronic communications service providers to cover the costs incurred in connection with the communications regulatory activity of the Authority, and by postal service providers to cover the costs incurred in connection with the postal supervisory activities. This fee shall be maximum 0.35 percent of net sales revenue generated by the electronic communications services of the electronic communications service provider in the course of the previous business year, and maximum 0.2 percent of net sales revenues generated by the postal services of the postal service provider in the course of the previous business year, or – in the absence of sales revenue from the previous year – a prorated part of sales revenue for the subject year projected for the entire year. The amount of the supervisory fee shall be defined every year by the President of the National Media and Infocommunications Authority in a decree within the limitations permitted by law.

(7) The supervisory fee shall be paid to the Authority on a quarterly basis, by the end of every quarter.

(8) If the Authority's supervisory revenues as defined by this Act exceed the amount of costs incurred in a budgetary year in connection with the performance of its statutory responsibilities, any surplus amount shall be credited, once the Authority's annual report was adopted, in the form of supervisory fees payable during the year following the subject year, in proportion of supervisory fees paid during the subject year and up to their amount.

(9) The Authority shall use the entire amount of fines collected during the previous year from actors of the communications and media market for developing the informed decision-making culture of consumers in the area of communications and the media, including particularly for supporting academic and training programmes concerning communications and media law, competition and consumer protection policy, for training professionals specialising in communications and media law and consumer protection policy, and disseminating information in order to increase awareness concerning communications and media policy and consumer decision-making. Any amount earmarked for this purpose but not used in the subject year may be rolled over to the following year, and may be spent on developing the informed decision-making culture of consumers.

(10) The Parliament shall make its decision about implementing the separate legislation referred

under Paragraph (2) by adopting the draft law of final accounts as proposed in accordance with the procedure outlined under Paragraph (2), including the annex referred to in Article 136 (15). The deadline for the submission of this Final Accounts Act shall be 31 May of every year.

(11) *[not in effect]*

(12) For the purposes of Paragraph (2), any legal statement made in accordance with the internal policies of the Authority and of the Fund and giving rise to a payment obligation to be financed from the consolidated budget in accordance with separate legislation as specified under Paragraph (2) shall be considered a commitment.

(13) The fees and administrative service fees payable to the Authority and imposed in any piece of legislation issued under the authorization granted in this Act or in a decision of the Authority, as well as the fines imposed under this Act shall qualify as public debts to be collected as taxes.

**Article 135** (1) The Media Council shall manage its finances in accordance with statutory regulations pertaining to the financial management of budgetary entities, and its accounts shall be managed by the Hungarian State Treasury.

(2) The budget of the Media Council shall be approved by the Parliament – in the Act on the budget of the Authority – as part of the consolidated budget of the Authority as a separate item thereof, to be financed from the amount that may be used to cover the operating costs of the Media Council from the Fund's resources defined in Article 136 (3) of this Act. The Media Council may re-allocate sums between target expenditure headings within its already approved budget.

### **Media Service Support and Asset Management Fund**

**Article 136** (1) The Fund is a separated asset management and monetary fund responsible to promote the structural transformation of public media services, the Public Service Foundation, the community media services and the public media service provider, to produce and support the public service programmes, to support contemporary musical works and cinematographic works intended to open at cinemas, to carefully manage and increase the Fund's own assets and the State owned assets the ownership rights of which are exercised by the Fund, as well as to promote and implement other activities related to the foregoing.

(2) The Fund's own assets and the State owned assets the ownership rights of which are exercised by the Fund (including the income collected as a result of utilisation and transfer of title of these assets as well) can only be used for the purposes defined by law.

(3) The Fund's revenues shall consist, in particular, of the following: media service provision fees, tender fees, default penalty and compensation levied for the breach of broadcasting agreement, fines, public service contributions, surplus frequency fee amounts transferred by the Authority to the Fund pursuant to Article 134 (5), support paid by media service providers providing linear audiovisual media services based on Paragraph (8), target subsidies from the central budget, proceeds from the disposal of assets, sale of assets, business activities, interest received and voluntary payments received.

(4) Every year the Hungarian State shall pay a public service contribution based on the number of households using equipment suitable for receiving linear audiovisual media services. The amount of this public service contribution shall be defined in Annex no. 4 of this Act. The public service contribution shall be paid by the State in twelve equal instalments, always in advance by the third day of every month, by transfer to the Fund's bank account. With the consent of the Media Council, the Fund shall be entitled to assign its revenues received from public service contributions.

(5) Acting on behalf of the Hungarian State, the Minister responsible for audiovisual policy may enter into agreement with the Fund for a maximum period of seven years on the payment of the public service contribution. The separate authorisation from the Parliament prescribed by the Public Finances Act shall not be required for the conclusion of this agreement.

(6) The Fund shall be a legal person, a business entity, and shall be managed by the Media Council. The Fund shall be the legal successor of the Broadcasting Fund and of the Broadcasting Support and Asset Management Fund.

(7) The Fund must have a payment account with the Hungarian State Treasury, however, in addition to its payment account, it shall have the right to have other payment accounts at any credit institutions.

(8) Media service providers with significant market power, providing linear audiovisual media services shall use two and a half percent of their annual advertising revenues on supporting new Hungarian cinematographic works. This obligation may be performed either by paying the relevant amount to the Fund, or by providing financial support for new cinematographic works specified in an agreement concluded by and between the Fund and the media service provider. The media service provider may deduct this amount paid or used as support from its corporate tax base.

(9) Voluntary payments made into the Fund shall qualify as public service commitment. If the voluntary payment into the Fund is based on a commitment undertaken in a public contract made with the Authority or the Media Council or an agreement made with the Media and Communications Commissioner, the voluntary payment shall be used in accordance with the provisions of such agreements.

(10) The Fund's support and subsidy policy, business plan and annual report shall be adopted by the Media Council. The Media Council's prior consent shall be obtained before the Fund's financial resources and the assets in the accounts can be used for any purpose not stated in the Fund's support and subsidy policy or business plan, and for undertaking commitments to be financed from the foregoing, or for making payments that exceed the threshold amount defined by the Media Council.

(11) The CEO shall be entitled to represent the Fund. All employer's rights vis-à-vis the Fund's CEO – including his/her appointment, determining his/her salary and allowances, and termination of his/her employment by the employer – shall be exercised by the President of the Media Council.

(12) The CEO shall make a proposal to the President of the Media Council for the appointment of the Fund's Deputy CEOs as well as for termination of their employment, who shall decide about the appointment, wage and allowances, and termination by the employer. In other respects the CEO shall exercise the employer's rights in relation to Deputy CEOs.

(13) The rules of conflicts of interests defined in Article 118 (1)-(2) pertaining to the President and Vice-President, as well as the Director General and Deputy Director General of the Authority, and the rules of exclusion defined in Article 118 (3) shall be applicable to the CEO and Deputy CEO of the Fund as appropriate.

(14) The Chairperson and four members of the Fund's Supervisory Board shall be appointed and removed by the President of the Media Council. Their remuneration shall be established by the President of the Media Council.

(15) The Fund's annual budget shall be approved by the Parliament as an annex to the separate legislation referred to in Article 134 (2).

(16) The detailed rules of managing the Fund shall be defined by the Media Council.

(17) *[not in effect]*

(18) The Fund shall be personally exempted from the payment of duties and shall not be subject to corporate tax or local tax obligations.

**Article 137** (1) Support for public service programmes, community media service providers, cinematographic works intended to open at cinemas – with the exception of cinematographic works supported as defined in Article 136 (8) of this Act –, and contemporary musical works shall be provided for by way of open tendering.

(2) The general conditions of tendering elaborated by the Fund shall be approved by the Media Council.

(3) The Fund shall prepare and publish its invitation to tender based on the already approved



general conditions of tendering. The method for evaluating tender bids shall be regulated among the general conditions of tendering.

(3a) The obligation undertaken in consideration for the support awarded under a tender, disbursed by the Fund based on its responsibility specified under Article 136 (1), directly influencing the price of the service, shall not be considered as a service provision in terms of Article 13 of the VAT Act.

(3b) The services used and products purchased in connection with the production of the work of art produced from the support awarded and disbursed by the Fund under a tender based on Article 136 (1) shall be considered as products and service provision used for the purpose of a taxable sale of merchandise and/or service provision in terms of Articles 120, 123 and Annex no. 5 of the VAT Act.

(4) In order to achieve the purposes of public media services as defined in Article 83, the Fund shall provide further training for persons engaged in producing public service media content in order to promote the creation of media content of appropriate quality. The Fund shall be entitled to make the necessary training arrangements within the scope of its commercial activity.

### **The Fund's Financial Management of State Assets**

**Article 137/A** (1) The Fund shall act as the entity exercising the ownership rights, as defined under point 17 of Article 3 (1) of Act CXCVI of 2011 on the National Assets (hereinafter referred to as: the National Assets Act) over all those State owned assets (the assets entrusted to it) (including the copyrights and other related rights due to the State)

a) for which the law appointed the Fund or previously any of its predecessors, to exercise the ownership rights and obligations, furthermore

b) which were transferred to State ownership in connection with the public media service or an activity supporting such service.

(2) The Fund, for purpose of performance of the public media service, has the right to establish a business association on behalf of the Hungarian State, or for that purpose, to acquire shares in business associations or to exercise ownership rights (membership, shareholding) therein.

(3) The primary purpose of the assets entrusted to it shall be to promote the performance of the public media service and the news agency service, being public functions (duties).

(4) The primary purpose of the asset management shall be to efficiently operate the assets, protect their condition, maintain or increase their value in order to ensure the fulfilment of the public function determined under Paragraph (3).

(5) The Fund's activity aiming to exercise its ownership rights over the State assets belonging to the assets entrusted to the Fund shall not be subject to Act CVI of 2007 on State Assets (hereinafter referred to as: the State Assets Act).

(6) The Fund shall qualify as a transparent organisation as per point 1 of Paragraph (1) of Article 3 of the National Assets Act.

**Article 137/B** (1) The provisions of the National Assets Act shall be applied in terms of the Fund's exercising of the ownership rights over the State assets belonging to the assets entrusted to the Fund, subject to the deviations specified under Paragraphs (3)-(9).

(2) The Fund itself may use and utilise the State assets belonging to the assets entrusted to the Fund, or (unless otherwise stipulated by law) may transfer the ownership title of these assets (sale). The agreement on utilisation or transfer of ownership title shall be made in writing.

(3) Any assets above the value limit specified under Article 11 (16) of the National Assets Act, unless otherwise stipulated by law, can be utilised or transferred only with public tendering, or, in exceptionally justified cases, with restricted tendering, proportionately to the value of the service and consideration. For purpose of determining the value limit, the market value of the asset or asset part subjected by the utilisation or sale or, in case of a transaction affecting several asset elements, the

aggregate market value of the asset elements shall be taken into account. In case of real estates and other asset elements with an individual gross book value above HUF 5 million, the market value shall be determined on the basis of an independent expert's opinion.

(4) The obligation to conduct a tendering procedure shall apply even in the event of extension of use agreements concluded for a fixed-term. The contracting authority shall be obliged to guarantee equal opportunities under the tendering procedure to all participants in terms of access to the information required for the submission of the tender and the applied conditions of competition.

(5) The tendering can be omitted

a) if the utilisation is performed for the benefit of an organisation or public body falling within the scope of public finances,

b) if the utilisation is performed for the benefit of an organisation operating under the separate or joint majority ownership of the Hungarian State and/or the Fund,

c) if the utilisation is performed for the benefit of an organisation performing certain tasks of the State or municipalities, as stipulated by law,

d) if the utilisation is performed for the benefit of the public media service provider,

e) if the utilisation is performed for the benefit of a foreign state or foreign municipality, furthermore

f) if provisions of law or other circumstances of transfer of usage restrict the selection of the potential user in such a material way or to such a significant extent so that the advantages arising from the tendering procedure cannot be ensured,

g) if the duration of the contract to be concluded for a fixed-term

ga) does not exceed 180 days in case of real estates,

gb) does not exceed 3 years in case of contracts or license agreements concluded in terms of archive materials,

gc) does not exceed 90 days in other cases, or

h) if the utilisation is targeting the usage of the Fund's production capacities or the related studios and equipment.

(6) The tendering can be omitted

a) if the ownership title is transferred to an organisation falling within points a)-e) of Paragraph (5), or

b) if the ownership title is transferred by means of exchange, or

c) if the ownership title is transferred for purpose of implementation of an international convention, furthermore

d) if the asset is made available to a business association as a contribution in kind,

e) if a valid purchase option for an asset is exercised,

f) in case of execution of a piece of legislation on lot formation or an agreement on ownership change required for execution of lot formations.

(7) A restricted tender can be held, in particular, if the reasonable, planned costs of public tendering of the given asset element would significantly reduce the revenue that can be generated from the utilisation on an annual level or from the sale thereof, or if the previous public tendering procedure was unsuccessful and only a restricted tendering procedure can guarantee the efficient management of the State assets entrusted to the Fund.

(8) If a restricted tender is held, at least three concerned parties, independent from each other, shall be invited to the tendering procedure in writing, simultaneously, directly and in the same way (by sending them the invitation to tender).

(9) A purchase option on the assets entrusted to the Fund can only be established in compliance with the rules on sale, as stipulated by law.

(10) Except for the case specified under Article 11 (13) of the National Assets Act, the Fund, in the course of its asset management activity, shall ensure a free of charge use of the assets entrusted to it to

the public media service provider, furthermore, it shall provide the related services free of charge, including also the services guaranteeing the continuous operation of the public media service provider.

(11) In the event of a free of charge transfer of a scrapped tangible asset (not qualifying as a real estate) belonging to the assets entrusted to the Fund, the provision on the reporting obligation specified under Article 13 (4) (b) of the National Assets Act shall not be applied.

**Article 137/C** (1) No contract on the utilisation or transfer of ownership title of the entrusted assets can be concluded with an entity

a) that is under bankruptcy or liquidation proceedings, voluntary liquidation, or the proceedings of local governments for consolidation of debts;

b) that has suspended its activities or whose activities have been suspended;

c) that has any outstanding public debts overdue for more than sixty days, as per point 20 of Article 178 of Act XCII of 2003 on the Rules of Taxation;

d) that has a criminal record for the following criminal offences:

da) crimes against public justice as stipulated under Title VII of Chapter XV, and economic crimes stipulated under Chapter XVII of Act IV of 1978 on the Criminal Code, in force until 30 June 2013,

db) the following criminal offences specified under the following Chapters of Act C of 2012 on the Criminal Code: crimes of corruption stipulated under Chapter XXVII, criminal offences relating to counterfeiting currencies and philatelic forgeries stipulated under Chapter XXXVIII, criminal offences against public finances stipulated under Chapter XXXIX, money laundering stipulated under Chapter XL, economic and business related offences stipulated under Chapter XLI, crime against consumer rights and any violation of competition laws stipulated under Chapter XLII, or illicit access to data and crimes against information systems stipulated under Chapter XLIII;

e) that is banned from exercising an occupation excluding the holding of an executive position in a business entity or business association, or whose activities have been restricted by a final and binding court judgement pursuant to Article 5 (2) of Act CIV of 2001 on Criminal Measures Applicable to Legal Persons;

f) that provided false data under any previous proceedings subjecting the utilisation or sale of State assets, closed within the last three years, and hence was excluded from such a proceeding.

(2) Prior to execution of the contract, the contracting party must make a written statement (signed personally by him/her or in case of a legal entity, by the authorised signatory) verifying that the grounds for exclusion specified under Paragraph (1) do not apply regarding such contracting party. In the absence of this statement the contract cannot be concluded. A contract concluded on the basis of false statements shall be null and void.

(3) In the event any grounds for exclusion as per Paragraph (1) arises subsequent to conclusion of the contract on the utilisation of the entrusted assets, the Fund shall have the right to terminate the contract with immediate effect.

**Article 137/D** The Fund, subject to the prior approval of the Media Council, and the Hungarian National Asset Management Inc may enter into an agreement regarding the free of charge transfer of the exercising of the ownership rights over any of the asset elements, to be registered at book value. This agreement shall enter into force as of its approval by the Minister responsible for State assets. The initiative regarding this shall be submitted to the Minister responsible for State assets jointly by the Fund and the Hungarian National Asset Management Inc. As of entry into force of the agreement, the concerned asset shall qualify as an asset defined under Article 3 (1) of the State Assets Act.

**Article 137/E** (1) The register of the Fund's own assets and the register of the State assets entrusted to the Fund shall have to be separated within the Fund's registers. The entrusted assets shall be registered in a way allowing identification thereof, in line with the characteristics of the given asset, in the way agreed with the Hungarian Central Statistical Office, indicating their quantitative data and value, and also the date of creation (capitalisation).

(2) The registration obligation at the value as per Paragraph (1) shall not apply to the asset elements the value of which cannot be determined due to their nature or characteristic, hence in particular, the copyrights and related rights of materials stored in archives.

(3) The Fund shall meet its obligations of accounting and annual reporting regarding the State assets entrusted to it in compliance with the decree on the accounting of public finances.

(4) Having regard to the public function stipulated under Article 137/A (3), the register does not have to include separately the public function as per the primary purpose of the asset.

### **Institute for Media Studies of the Media Council**

**Article 138** (1) The Institute for Media Studies of the Media Council (hereinafter as: Institute) is an independent entity of the Authority, assisting the operation of the Media Council, and pursuing independent scientific activity. The head and members of the Institute are all civil servants of the Authority.

(2) Work at the Institute is supervised by the Media Council.

(3) The Institute's tasks shall be as follows:

- a) support the operation of the Media Council by way of performing research and analysis;
- b) conduct social science research connected to the media;
- c) publish professional materials;
- d) organise professional conferences;
- e) perform other tasks defined for the Institute by the Media Council.

(4) The Institute may also engage the services of external experts.

### **Chapter III**

### **THE MEDIA AND COMMUNICATIONS COMMISSIONER**

#### **General rules**

**Article 139** (1) The Media and Communications Commissioner (hereinafter as: Commissioner) operates as part of the Authority. The Commissioner contributes to the promotion of the equitable interests of users, subscribers, viewers, listeners, consumers of electronic communications services or media services, as well as the readers of press products, regarding electronic communications, media services and press products. The Commissioner shall act in matters vested in him/her under this Act.

(2) The Commissioner shall be appointed and removed by the President, who shall also exercise the employer's powers over him/her. The Commissioner is a civil servant in the position of a Head of Division. In performing its duties specified in this Chapter, the Commissioner may not be given instructions.

(3) The provisions of Paragraphs (2) and (2a) of Article 111/A shall apply *mutatis mutandis* to the Commissioner.

(4) The Commissioner is assisted in performing its duties by the Office of the Media and Communications Commissioner (hereinafter as: Commissioner's Office) headed by the Commissioner, the civil servants of the Commissioner's Office shall be appointed and removed by the President; the employer's other powers over these civil servants shall be vested with the Commissioner.

(5) The operation, organisational structure, internal and external relations of the Commissioner's Office is defined in the By-laws of the Authority and the rules of procedure of the Commissioner's Office. The rules of procedure of the Commissioner's Office are prepared by the Commissioner and are approved by the President.

(6) The budget of the Commissioner's Office shall be determined separately within the budget of

the Authority.

**Article 140** (1) On detecting a conduct related to the provision of a media service, press product or electronic communications service, which conduct does not constitute a breach of a regulation on media administration or electronic communications and falls outside the scope of competence of the Media Council, the President or the Office, but is, or may be suitable to cause harm to the equitable interests of the users, subscribers, consumers, viewers, readers and listeners of media services, press products or electronic communications services,

a) the person affected by the harm to interests (for the purposes of this Chapter, hereinafter as: harm to interests) or exposed to the direct danger of such damage to interests; or

b) an association representing the interests of consumers, subscribers, users, listeners, or readers may file a complaint with the Commissioner's Office.

(2) Requests and notifications received by the President, the Office or the Media Council that meet the conditions laid down under Paragraph (1) in terms of content and contain all the data required under Article 141 (5) shall be transferred to the Commissioner by the President, the Office or the Media Council within eight days, and the Commissioner shall adjudge such requests and notifications as complaints received by him/her. This fact, as well as the fact of the transfer shall be communicated to the requesting party or the complainant concurrently with the transfer.

(3) The Commissioner shall act pursuant to the provisions specified under Article 142 in the case of complaints concerning electronic communications services, and shall act pursuant to the provisions specified under Article 142/A in the case of complaints concerning media services or press products.

### **The common rules applicable to proceedings of the Commissioner**

**Article 141** (1) The proceedings of the Commissioner shall not be deemed as a regulatory procedure, and the Commissioner shall not have the right to exercise regulatory powers. The complaints defined in Article 140 (1) shall not be deemed as official matters. The Commissioner may apply regulatory instruments – as stipulated in Article 142 – only in case of complaints concerning electronic communications services.

(2) The Commissioner may proceed upon having received a complaint only. The Commissioner shall examine the complaint and if it is obviously unfounded or if the harm to interests therein described is of minor importance, or if the case falls outside the Commissioner's scope of competence, he/she shall notify the complainant accordingly within fifteen days. In his/her notification, the Commissioner shall – to the necessary extent – inform the complainant of his/her rights and obligations under the legislation on electronic communications and/or media administration or under the subscription contract, as well as the course of action and means of legal remedy available for such complainant.

(3) If the Commissioner detects in the course of the conciliation procedure conducted according to Article 142 (4) or 142/A (1) that the complaint is unfounded or the harm to interests therein described is of minor importance, or if the case falls outside the Commissioner's scope of competence, he/she shall terminate the proceeding, and shall notify the complainant and the parties to the conciliation procedure accordingly within fifteen days. In his/her notification, the Commissioner shall – to the necessary extent – inform the complainant of his/her rights and obligations under the legislation on electronic communications and/or media administration or under the subscription contract, as well as the course of action and means of legal remedy available for such complainant.

(4) The complainant shall have the right to request the restricted handling of his/her personal identification data and address. In such cases, the Commissioner, with a view to ensuring the right of access to the documents, shall make an extract of the complaint in a manner which prevents the identity of the complainant from being established. Only this extract may be disclosed to third parties by the Commissioner. For the purposes of investigating the complaint, the Commissioner will handle



the personal data of the complainant disclosed to the Commissioner in the course of the procedure and directly related to the complaint until the procedure on the complaint is completed. This fact shall be brought to the complainant's attention.

(5) The complaint shall contain the name, address or mailing address of the complainant, the particulars of the harm to interests that call for action by the Commissioner, or the action or conduct that suggest the harm to interests, as well as the circumstances that suggest or substantiate that the other conditions laid down in Article 140 (1) are fulfilled. In case of complaints filed with insufficient information, the Commissioner shall invite the complainant in any phase of the proceeding to rectify the deficiencies within a specified deadline. If the complainant fails to rectify the deficiencies appropriately despite of being invited to do so, the application may not be deemed as a complaint, and therefore the Commissioner shall not proceed. If the proceeding has already been launched, the Commissioner shall terminate the proceeding and shall notify the complainant and the other parties to the conciliation procedure thereof within fifteen days. In his/her notification, the Commissioner shall – to the necessary extent – inform the complainant of his/her rights and obligations under the legislation on electronic communications and/or media administration or under the subscription contract, as well as the course of action and means of legal remedy available for such complainant.

### **Proceeding by the Commissioner in case of complaints concerning electronic communications services**

**Article 142** (1) In order to investigate the harm to interests as defined in Article 140 (1) which the Commissioner has become aware of from the complaint, the Commissioner shall have the right to request data related to the harm to interests from any electronic communications service provider, by applying in the appropriate manner the measures defined in the Act on the General Rules of Administrative Proceedings and Services regarding regulatory inspections and the other measures stipulated in this Act concerning the establishment of the facts of the case. The electronic communications service provider concerned shall furnish the Commissioner with the requested data, information, documents or records (for the purposes of this Subtitle, hereinafter collectively as: data) within fifteen days, even if the particular data qualifies as a business secret. The Commissioner shall keep the business secrets revealed to him/her confidential and handle them at the request of the data supplier as a document with restricted access.

(2) The Commissioner shall complete its proceedings under this Article within the deadline laid down in Article 151. This deadline shall not include

*a)* the period between the date of invitation to rectify deficiencies as per Article 141 (5) and the date of such rectification,

*b)* the period between the date of requesting data according to Paragraph (1) and the date of the actual data provision,

*c)* the period of time necessary for the procedure as defined in Paragraph (3),

*d)* the period between the invitation to make a statement according to Paragraph (5) and the date of making such statement.

(3) If the particular electronic communications service provider fails to furnish the Commissioner with the requested data within the specified deadline, the Commissioner shall resort to the Office. The Office shall initiate verbal or written conciliation with the electronic communications service provider concerned about the necessity of such data provision and the scope of data to be provided. After such conciliation, the Office shall oblige the particular electronic communications service provider to furnish the data related to the harm to interests as specified by the Commissioner in accordance with Paragraph (1) and with the results of the completed conciliation procedure. An appropriate deadline of at least fifteen days shall be set for the provision of the particular data. The provisions of Paragraphs (5)-(7) of Article 155 shall be applied *mutatis mutandis*. The obliged

electronic communications service provider may seek legal remedy with suspensive effect by requesting the judicial review of the order by the Budapest Administrative and Labour Court. The Budapest Administrative and Labour Court shall decide in an out-of-court proceeding within eight days, and no further legal remedies may be sought against its order. In the event the electronic communications service provider fails to furnish the Office with the requested data, or furnishes it improperly or falsely, the Office may apply the legal sanctions defined in Article 156. The Office shall provide the Commissioner with the received data.

(4) the Commissioner, in the course of his/her proceedings, will conduct verbal or written conciliation with the electronic communications service provider on the harm to interests (for the purposes of this Article, hereinafter as: conciliation procedure). The Commissioner will involve the complainant in the conciliation procedure, if the Commissioner finds it expedient and if it is requested by the complainant, and, if the matter concerns a large number of consumers, the Commissioner may also involve the representative of the association engaged in the protection of consumer interests.

(5) In the conciliation procedure the Commissioner will furnish the electronic communications service provider with the description of the harm to interests with the request to provide a statement with their response within a specific deadline of at least fifteen days.

(6) In justified cases, the Commissioner, on the basis of the written statement of the electronic communications service provider, will call the representative of the particular electronic communications service provider and/or, if needed, the complainant or the representative of the association engaged in the protection of consumer interests to attend a personal consultation.

(7) If the Commissioner and the electronic communications service provider fail to reach an agreement to remedy the harm to interests, the Commissioner shall record the results of the conciliation procedure in a report and proceed as defined under Paragraph (9). If the conciliation procedure results in an agreement, the Commissioner and the electronic communications service provider concerned shall incorporate the agreement in writing, which the Commissioner shall send to the complainant and shall post the agreement on his/her website. In the agreement the parties shall provide for the manner of remedying the harm to interests.

(8) The agreement is a concordant and voluntary legal statement of the parties, concluded between the Commissioner and the electronic communications service provider concerned whereby the contractual rights shall entitle the users, subscribers, and consumers, resorting to the electronic communications service. The agreement may not result in any obligations imposed on the users, subscribers, or consumers. The provisions of the agreement shall constitute part of the legal relationship – by modifying such legal relationship – of the particular users, subscribers, and consumers with the particular electronic communications service provider, whereby the provisions of the agreement will be applicable in individual cases and the particular users, subscribers, or consumers may make a reference to these provisions in individual cases, and the Authority will have the right to verify compliance with the provisions of the agreement in the course of a regulatory inspection. The extent of cooperation demonstrated by the electronic communications service provider concluding the agreement as per this Paragraph with regard to the effective enforcement of consumer interests shall also be taken into account by the Authority in other official matters involving the given electronic communications service provider.

(9) The Commissioner shall make a report of the results of the successful conciliation procedure as necessary, and shall make a report of any and all conciliation procedures not resulting in an agreement. Such reports shall be sent to the complainant, to the electronic communications service provider concerned, and to any associations representing the interests of consumers in the proceeding. In addition to the particulars of the harm to interests, in its report the Commissioner shall describe the conduct of the electronic communications service provider in detail regarding the handling of the harm to interests, and, in particular its willingness to cooperate in remedying the harm to interests and enhancing consumer well-being. The Commissioner shall publish his/her report if it affects or may

affect a large number of consumers, or can issue a recommendation or guideline for the consumers for the purpose of avoiding further harm to interests. If no agreement was concluded, the electronic communications service provider concerned shall notify the Commissioner about the measures taken within the deadline of at least fifteen days specified by the Commissioner.

### **Proceeding by the Commissioner in case of complaints concerning media services and press products**

**Article 142/A** (1) The Commissioner, in the course of his/her proceedings, will conduct verbal or written consultations regarding the harm to interests as per Article 140 (1) (for the purposes of this Article, hereinafter as: conciliation procedure), with the professional, interest representing or self-regulatory bodies of media content providers (for the purposes of this Article, hereinafter collectively as: professional organisation).

(2) The Commissioner shall not proceed in relation to the complaint, unless

a) the complaint concerns such an activity causing harm to interests, which arises repeatedly in the course of activities by the media content provider, or which arises in the course of activities of more media content providers, and

b) the harm to interests specified in the complaint affects a significant part of the viewers, listeners, or readers.

(3) The Commissioner shall notify the media content provider about any and all complaints concerning its activities, and shall ensure for the media content provider the possibility to present its position in all stages of the conciliation procedure.

(4) The Commissioner shall, in the course of the conciliation procedure, forward the description of the harm to interests affecting a significant part of viewers, listeners, or readers to the professional organisations for commenting thereto within a specified deadline.

(5) The Commissioner shall, in the course of the conciliation procedure, prepare a proposal for remedying the complaint, and shall forward such proposal to the professional organisations. The Commissioner shall prepare its proposal in a way so to represent the interests of viewers, listeners, and readers, while taking into consideration the observations made by the professional organisations and the media content provider concerned.

(6) Based on the response given by the professional organisations and the media content provider concerned regarding the proposal, the Commissioner, in justified cases, shall invite the complainant, the professional organisations concerned, and the media content provider concerned to a personal conciliation.

(7) The Commissioner shall prepare a report of the results of the conciliation procedure, and shall forward the report to the complainant, the media content provider concerned, and the professional organisations concerned. In addition to presenting the circumstances of the harm to interests, the Commissioner shall present in the report the prepared proposals, and the respective responses and observations made by the media content provider and the professional organisations. The Commissioner may not publish its report.

(8) For the purposes of this Article, the deadline specified in Article 142 (2) shall be applied regarding the preparation of the proposal mentioned in Paragraph (5). This deadline shall not include

a) the period for making observations as defined in Paragraph (4),

b) the time used to prepare the expert opinion, provided that an expert is required to be involved in the conciliation procedure.

### **The Commissioner's Report**

**Article 143** The Commissioner shall prepare a quarterly report on his/her observations regarding

the proceedings carried out, the results of the proposals, as well as on his/her reports and proposals, for the President concerning the cases affecting the electronic communications service providers, and for the Media Council concerning the cases affecting the media content providers. The report prepared for the Media Council shall include only the general observations of the Commissioner, without disclosing any specific data concerning any individual media content provider.

#### Chapter IV

### PROVISIONS ON THE PROCEDURES BY THE MEDIA COUNCIL AND THE OFFICE OF THE NATIONAL MEDIA AND INFOCOMMUNICATIONS AUTHORITY

#### Application of the General Rules on Administrative Proceedings

**Article 144** (1) The Media Council and the Office (hereinafter for the purposes of this Chapter: Authority) shall act in accordance with the provisions of the Act on the General Rules of Administrative Proceedings and Services subject to the provisions of this Act.

(2) The members and the President of the Media Council shall have votes of identical value, that is, each person shall have one vote.

(3) The Media Council shall be deemed to have quorum when a simple majority of the members, including the President of the Media Council, are present.

(4) The decisions of the Media Council shall be passed with the simple majority of the votes of all members of the Media Council, including the President, with the exception of the case defined in Article 129 (7).

#### The Complainant

**Article 145** (1) Anyone not deemed to be a client for the purposes of the subject of the notification (hereinafter as: complainant) may lodge a complaint addressed to the Authority in matters falling within the scope of powers and responsibilities of the Authority defined in this Act, claiming infringement of the rules on media administration.

(2) The complaint shall contain the data of the complainant, the circumstances providing the grounds for the Authority's proceedings, the action or conduct that suggests infringement of the rules on media administration, as well as the facts providing the grounds for the complaint.

(3) Based on the complaint the Authority shall have the right to initiate proceedings ex officio at its sole discretion. If the Authority does not initiate proceedings on the basis of the complaint, it shall duly notify the complainant in an official letter, without having to specify the reasons for its decision.

(4) The complainant shall not become a subject in the legal relations arising under the regulatory procedure initiated on the basis of the complaint, the complainant shall not have the right to seek legal remedy against the regulatory decision of the Authority passed in the administrative proceedings initiated ex officio on the basis of the complainant's complaint.

(5) The complainant may request the restricted handling of his/her data as stipulated in Article 153 (2).

(6) *[not in effect]*

#### Legal Succession

**Article 146** (1) The client having acquired rights under a final decision may be replaced by its legal successor.

(2) The client bound by an obligation under a final decision is replaced by its legal successor,

provided that such replacement is not impossible. In case of an obligation established under a final decision the legal successor may voluntarily fulfil the obligation, within a deadline extended upon its request, in justified cases, on one occasion at the most. The Authority and the legal successor may agree on the above in a public contract as well.

(3) In case of an obligation established under a final decision, the third party to whom the original (legal predecessor) client, bound by an obligation, assigns the terms of its operations under a contract, shall also be deemed as a legal successor to such client.

(4) If the legal succession arises in the course of the regulatory procedure and is based on a statutory legislation, the Authority shall establish the fact of legal succession in its order. No separate appeal shall lie against such order.

(5) In the event that the legal succession arises in the course of the regulatory procedure and is based on a contract, the Authority shall establish the fact of legal succession necessary for exercising its regulatory powers in its order. No separate appeal shall lie against such order.

### **Confidentiality**

**Article 147** (1) During the term of their employment and after the termination thereof, persons currently or formerly employed by the Authority as civil servants or in other work-related relationship shall keep confidential any personal data, classified data and business secrets they may have learnt in relation to the operation and actions of the Authority as well as any other data, fact or circumstance that the Authority is not obliged to make accessible for the public, excepting those that are to be disclosed to other entities under relevant legislation.

(2) The persons listed under Paragraph (1) may not unlawfully disclose, utilize or make known to any third party, any data, fact or circumstance they may have learnt in the course of performing their tasks.

### **Communications via Electronic Means**

**Article 148** In its scope of competence and procedures defined under this Act the Authority may require that contact is maintained via electronic means.

### **Commencement of Proceedings**

**Article 149** (1) In matters falling within its competence the Authority may initiate proceedings ex officio, except if under this Act the proceeding may be initiated only upon application.

(2) If the Authority becomes aware of a breach of law falling beyond the scope of the particular official matter yet closely or indirectly related to such matter, it may ex officio extend its proceedings to that particular matter, before passing its regulatory decision. In accordance with the relevant provisions of the Act on the General Rules of Administrative Proceedings and Services the clients shall be notified of the fact that the proceedings were ex officio extended to the particular matter. On the ex officio extension of the proceedings, the administrative deadline of the proceedings shall be extended by the period of time applicable to the particular proceedings.

(3) The proceedings of the Authority defined in separate legislation shall be subject to an administrative procedural service fee.

(4) Proceedings of the Authority in relation to violations concerning media contents may be initiated (by request, notification) within three months of publication of the media content or, in case of continuous publication, after the first publication.

(5) If the applicant gained knowledge about the violation only subsequently or was otherwise prevented from filing the request or notification, the deadline set forth in Paragraph (4) shall start



from the date of gaining knowledge or from the date the obstacle was overcome. No regulatory procedures may be initiated in relation to violations concerning media contents after six months of publication of the media content or, in case of continuous publication, after the first publication. This deadline shall represent the expiry of the limitation period.

(6) Upon violation of Articles 14 and 16-20 of the Press Freedom Act, as well as Articles 9-11, Article 12 (3)-(4), Article 14, and Articles 23-36 of the Media Act, the authority may launch the regulatory procedure ex officio within one year after the media content was published or – in case of continuous publication – after the media content was published at the first time.

### **Assessment of Competence and Jurisdiction**

**Article 150** If the Authority has no competence or jurisdiction concerning a certain issue, the Authority shall have the right to reject the respective application and/or terminate the proceedings without examination thereof on the merits, without determining the competent authority and without transferring the case to such authority.

### **Administrative Deadline**

**Article 151** (1) Unless otherwise provided for in this Act the administrative deadline of the proceedings conducted by the Authority shall be forty days.

(2) The period may be extended in justified cases on one occasion, by thirty days at the most.

### **Application**

**Article 152** The client shall submit its application in the appropriate official form of the Authority, and in case contact via electronic means, in electronic form, in the notification procedures defined in Articles 42-47.

### **Access to Documents for Inspection, Secrets Protected by Law**

**Article 153** (1) Persons participating in administering the case and employed by the Authority as civil servants or engaged in other work-related relationship with such Authority, shall have unlimited access to the secrets protected by law.

(2) The client and other participants involved in the proceedings may designate the range of data they deem necessary to be treated as restricted data, by reference to the protection of the secrets protected under the law, in particular business secrets, to other equitable interests as well as to any significant media policy considerations, save for data made public for general public interests and data defined in relevant legislation that may not be rated as data restricted under the law. In this case the client and/or other participants involved in the proceedings shall also prepare a version of the document which does not contain the data defined above.

(3) Data defined under Paragraph (2) shall be handled by the Authority within the document folder separately, as restricted data. The Authority shall ensure that restricted data are not accessible for unauthorised persons in the course of the procedural acts.

(4) Only the officer, the keeper of Minutes, the executives of the Authority, the member of the Media Council, the competent public prosecutor and, in case of judicial review, the acting judge shall be entitled to access the restricted data.

(5) To the extent so required to perform their duties connected to the subject of the official matter, other administrative authorities or government entities may also have access to restricted data, as deemed appropriate by the Authority, provided that such entities ensure at least the same level of

protection for the data thus transferred as at the disclosing authority.

(6) With a view to ensuring the right of access to documents for inspection, the Authority shall prepare an extract of the document generated in the course of the proceedings, which document is otherwise in compliance with statutory requirement as to form and content, whereby no conclusions may be made as to the data defined under Paragraph (2).

(7) If the proper enforcement of the law, the enforcement of rights and the exercising of client rights justify it, the Authority may request that the client and other participants involved in the proceedings lift the restriction placed on the data management as defined under Paragraph (2).

(8) In case the client or other participant in the proceedings does not lift the restrictions defined under Paragraph (2), the Authority – if such action is indispensable for law enforcement or for the enforcement of rights vested with clients – may provide for in its order that the restricted data management be lifted. This order may be challenged by the client or the other participant in the proceedings by submitting an appeal to the Budapest Administrative and Labour Court with a suspensive effect; the court shall decide in the matter with priority in out-of-court proceedings within eight days. No further appeal shall be available against the order of the Budapest Administrative and Labour Court.

### **Exclusion**

**Article 154** (1) In addition to those specified in the relevant provisions of the Act on the General Rules of Administrative Proceedings and Services on exclusions, no person may participate in handling of the case on the merits, who had a legal relationship as defined in Point (a) with the client or with an enterprise with a qualifying holding in the client or with an enterprise operating under the client's qualifying holding within one year of the commencement of the proceedings, or whose relative

a) is in employment relationship, other work-related relationship or membership relationship with the client, or is an executive officer thereof;

b) holds an ownership share in the client;

c) is in employment relationship, other work-related relationship or membership relationship with a natural person or legal person that is in regular business relations with the client, or is an executive officer thereof, or has a shareholding in the above;

d) is in a work-related relationship with an organisation that is a supervisory or subordinate entity to the client and/or which has provided any support or exclusive licence for the client, excluding the work-related relationship with the Foundation or the Authority.

(2) The acting officer of the Office shall forthwith report to the Director General any grounds for exclusion on his/her part. The acting officer of the Office shall be bear disciplinary and financial liability for his/her failure to or delay in, making a notification. The decision on the exclusion of a particular officer of the Office shall be made by the Director General and, if necessary, he/she shall designate the officer acting on behalf of the Office.

(3) The Director General shall forthwith report to the President any grounds for exclusion on his/her part. The Director General shall bear disciplinary and financial liability for his/her failure to or delay in, making the notification. The decision on the exclusion of the Director General shall be made by the President. When there are grounds for the exclusion for the Director General, the President – in making its decision – shall consider whether the Director General may proceed in the particular case under the condition that he/she shall notify the President of his/her decision, or whether the President will select one of the Deputy Directors General to exercise the scope of competence.

(4) If the report submitted by the client with the aim of exclusion is obviously unsubstantiated, in the order on rejecting the exclusion the client may be subjected to a procedural fine laid down in Article 156.

(5) The decision on the exclusion of a Media Council member shall be made by the Media Council. The member thus excluded may not participate in handling of the case on the merits. When, as a result of exclusion, the Media Council does not have a quorum, the Media Council will proceed with the involvement of the excluded members in accordance with the relevant provisions of the Act on the General Rules of Administrative Proceedings and Services, irrespective of their grounds for exclusion, with such members also having a right to vote.

(6) When there are grounds for exclusion in the case of the President, the Vice-President designated by the President shall proceed in handling of the case on its merits.

### **Establishing the Facts of the Case**

**Article 155** (1) In establishing the facts of the case, the Authority shall apply the provisions of the Act on the General Rules of Administrative Proceedings and Services on establishing the facts of the case and on regulatory inspections subject to the provisions specified under Paragraphs (2)-(10).

(2) In order to establish the facts of the case, the Authority shall have the right to view, examine and make duplicates and extracts of any and all instruments, deeds and documents containing data related to the media service, the publication of the press product or the media service distribution, even if such instrument, deed or document contains business secrets.

(3) In order to establish the facts of the case, the Authority shall have the right to oblige

a) the client and

b) other participants in the proceeding, the agents and employees of the client or of the other participants in the proceeding, and persons in other legal relationship with the client or the other participants in the proceeding, and – in exceptionally justified cases – other persons or organisations (for the purposes of this Article, hereinafter as: other participants)

– while warning them about the legal sanctions specified in Article 156 that can be applied if this obligation is not met in the appropriate manner – to make a statement, to provide data, or to provide either verbally or in writing data in a comparable format as defined by the Authority, and to furnish other information (for the purposes of this Article, hereinafter as: data provision).

(4) The order mentioned in Paragraph (3) may be challenged by the other participants obliged to provide data by submitting an appeal to the Budapest Administrative and Labour Court, and such appeal shall have a suspensive effect. The court shall decide in the matter with priority, within the framework of an out-of-court proceeding, within eight days. No further appeal shall be available against the order of the Budapest Administrative and Labour Court.

(5) For the purposes of Paragraphs (2) and (3),

a) the deeds, instruments, and documents generated during or for the purposes of the communications between a client and his or her legal representative or recording the contents of such communication, provided, in all above cases, that this characteristic is apparent directly from the deed, instrument or document itself, may not be used as evidence, may not be examined, may not be seized, and their holder may not be obliged to produce it during an inspection;

b) the Authority may not oblige the media content provider or a person in an employment relationship or in a work-related legal relationship with a media content provider to provide any data, or to hand over any deed, instrument or document that would reveal the identity of the person delivering information to him/her in connection with the media content provider's activities.

(6) The exemption specified under Paragraph (5) shall remain valid even after the legal relationship justifying the exemption is terminated. The client may grant an exemption regarding the prohibition stipulated in Point a) of Paragraph (5).

(7) Any client or other participant of the proceeding obliged to provide data or to hand over or present any deed, instrument, or document despite of having recourse to the exemption stipulated in Paragraph (5) may seek legal remedy with suspensive effect from the Budapest Administrative and

Labour Court against the order of the Authority, and the court shall decide in the matter with priority, within the framework of an out-of-court proceeding, within eight days. No further appeal shall be available against the order of the Budapest Administrative and Labour Court.

(8) A witness may be heard on the business secret of the client even if the client has not granted him/her an exemption regarding the obligation of confidentiality.

(9) In particularly justified cases, the Authority shall have the right to resort to the deeds, data, documents and other means of evidence generated in the course of a regulatory procedure also for the purposes of another procedure, when necessary for reducing the procedural burden on clients or for proper and effective law enforcement.

(10) The media service provider shall keep the authentic documentation on its programme flow, including the full recording of output signals of the media service, for a period of sixty days from the date of broadcast or, in case of on-demand media services, from the last day the concerned content was made available. For the purposes of regulatory inspection, the Authority shall be entitled to oblige the media service provider – within the period of statutory retention – to deliver the authentic documentation on its programme flow without delay and free of charge. In case of a regulatory procedure instituted or a legal dispute arising in relation to a media service, the media service provider shall keep the documentation for a period of one year from the conclusion of the proceedings with a final force.

### **Procedural Fine**

**Article 156** (1) In case of hindrance on the proceedings, the Authority shall have the right to impose procedural fine on the client, other actors in the proceedings or other persons obliged to cooperate with a view to establishing the facts of the case, when these parties act in a manner aimed at the prolongation of the proceedings or preventing the actual facts of the case from being established, or in a manner which may result in the above.

(2) The maximum amount of the procedural fine is twenty-five million forints or, for private person clients, one million forints.

(3) In addition to the provisions of Paragraphs (1)-(2), the Authority shall have the right, and in case of repeated offence, shall be obliged, to impose a procedural fine also on the executive officer of the breaching entity in case of hindering the proceedings or in case of failure or improper fulfilment of the obligation to furnish data, in the maximum amount of three million forints.

(4) When setting the amount of the procedural fine, the Authority shall take into account especially the net sales revenue generated by the breaching entity in the previous year and the fact whether the offence was committed on one or more occasions.

### **Public Hearing**

**Article 157** (1) When so required under this Act or to the extent it deems necessary and justified to perform its duties, the Authority, with a view to familiarizing itself with legislation on media administration and the measures pertaining to its enforcement, and with the experts' positions and opinions on the preparation and implementation of law enforcement procedures, shall hold a public hearing, inviting media service providers, entities providing ancillary media services, publishers of press products, media service distributors, intermediary service providers, self-regulatory professional organisations, civil associations and others.

(2) Unless otherwise provided for in this Act, the Authority shall publish the date, time, place and subject of the public hearing at least thirty days before the scheduled date thereof.

(3) The Authority shall publish the preparatory documents related to the subject of the public hearing, excepting business secrets, at least ten days before the scheduled date of the hearing.

**Article 158** (1) Eight days before the scheduled date of the public hearing the Authority shall post on its website the documents received by it in an electronic format in relation to the public hearing.

(2) The Authority shall prepare a summary or a protocol on the public hearing containing comments and proposals given and voiced at the hearing, excepting data classified by the commenter or proposer as business secret. The Authority shall publish the summary within thirty days of the date of the hearing.

### **Consultations with Stakeholders in Significant Issues**

**Article 159** (1) To the extent it deems necessary, the Media Council may initiate consultations with stakeholders in matters falling within its regulatory powers (hereinafter as: consultations). In so doing, the Media Council – at least fifteen days before passing its regulatory decision – shall publish the draft decision and preparatory documents necessary for the consultations, with the exception of data subject to restricted data handling within the proceedings.

(2) Within eight days of publication of the draft regulatory decision as defined under Paragraph (1), anyone may submit to the Media Council in writing his/her position, proposal and other comments he/she may have concerning the draft decision (hereinafter as: comment). The Media Council shall not be bound by the comments so received, which serve for information purposes only, with no obligation on the part of the Media Council to take them into account for the purposes of passing its regulatory decision.

(3) In its regulatory decision the Media Council shall not be under obligation to justify the necessity to hold consultations or – when it initiates consultations – to justify the reasons why comments were taken or not taken into account.

(4) By virtue of the fact of submitting comments, the stakeholders having submitted comments as defined under Paragraph (2) will not become a party to the procedural relationship involving the regulatory decision being the subject matter of the consultations. Stakeholders shall not be entitled to legal remedies within the scope of its comments, even in relation to the portions of the regulatory decision pertaining to the comments.

### **Public Contract**

**Article 160** (1) In cases defined herein, the Authority shall have the right to conclude a public contract with a client, based on the provisions of the Act on the General Rules of Administrative Proceedings and Services and subject to the provisions of this Act.

(2) Under the public contract concluded with the Authority, the client may assume obligations that are beyond the Authority's regulatory powers, and compliance therewith on the part of the client could not be prescribed otherwise under a regulatory decision. In this case, under the public contract the client agrees that in case of non-compliance on the client's part with the provisions of the agreement the entire agreement shall be regarded as a final and enforceable regulatory decision.

(3) Regarding those contractual terms and conditions which could be imposed on the contractual party by way of regulatory decision under the law, the approval of third parties whose rights and lawful interests are affected by the contract is not a condition to the public contract being validly concluded.

(4) The administrative deadline for the completion of the official matter by a public contract as defined in Article 151 shall apply subject to the provisions of this Act.

**Article 161** (1) The Authority shall check compliance with the provisions of the public contract in the course of a regulatory inspection. When under the regulatory inspection the Authority establishes breach of the public contract by the client, it shall assess, with a view to the facts revealed in the inspection, the gravity of the breach, the effective enforcement of rights, the social, economic and



legal relations affected by the contract, the relevant media administration principles and objectives, and the effective enforcement of public interest underlying the contract, whether to initiate in the case involving the breach of the decision the enforcement proceedings as defined in the Act on the General Rules of Administrative Proceedings and Services, or the regulatory procedures to apply the legal sanctions specified in this Act.

(2) When the Authority initiates enforcement proceedings, the client may seek review of the order on enforcement, by claiming infringement of law, at an administrative court within fifteen days of the order being announced. The court will pass its decision, based on the hearing of the parties, if necessary, in out-of-court proceedings within fifteen days. The submission of the application for out-of-court proceedings shall have a suspensive effect on the enforcement of the order. No appeal may be lodged against the order of the Budapest Administrative and Labour Court.

(3) When the Authority, under Paragraph (1), initiates proceedings to apply legal sanctions specified in this Act, no independent legal remedy shall lie against the institution of the proceedings.

(4) In the regulatory procedure initiated as a result of the regulatory inspection and on account of breach of contract by the client, the Authority may apply the legal sanctions defined in Article 187 and in the public contract.

(5) In case of material or repeated breach of contract by the client, the Authority, unless otherwise provided for in the public contract, shall have the right to terminate the public contract with immediate effect.

(6) An action brought before the court for the amendment of the public contract, shall not affect the fulfilment and enforcement of the public contract and shall not have a suspensive effect on the fulfilment and enforcement of the public contract.

### **Disclosure**

**Article 162** (1) The Authority shall comply with the provisions of the Act on the General Rules of Administrative Proceedings and Services on disclosure to the general public by notification posted through its website.

(2) The Authority shall publish its regulatory decisions and the relevant court decisions through its website, having regard to the protection of personal data and restricted data handled in the proceedings.

(3) When the law allows notification through public notice, the notice shall be made public by posting the notice on the bulletin board of the Authority and by posting such notice on the website of the Authority.

### **Legal Remedies**

**Article 163** (1) No appeal may be lodged against the regulatory decision of the Media Council passed in its capacity as authority of the first instance. Review of the regulatory decision of the Media Council may be requested only by the client, and as regards the provisions expressly applicable to him/her, the witness, the official witness, the expert, the interpreter, the holder of the object under inspection, the representative of the client and the liaison officer, by claiming infringement of law, at the court proceeding in administrative cases, within thirty days upon announcement of the regulatory decision, by bringing an action against the Media Council.

(2) The court proceedings instituted on the basis of the statement of claim for review of the Media Council's decision shall be subject to the provisions of the Act on the Code of Civil Procedure on public administration lawsuits, subject to the provisions of this Act.

(3) The submission of the statement of claim shall not have a suspensive effect on the enforcement of the decision; the court may be requested to suspend the enforcement of the regulatory decision challenged by the statement of claim.

(4) The Media Council shall forward the statement of claim, together with the documents and representations of the case, to the court within fifteen days of receipt thereof.

(5) The application for out-of-court proceedings against the orders of the Media Council which can be challenged by an independent legal remedy shall be submitted within fifteen days of the notification of the order.

(6) No supervisory proceedings may be instituted concerning the regulatory decisions of the Media Council.

**Article 164** (1) In proceedings specified under Article 163, courts of both first and second instance shall pass judgement within thirty days.

(2) The judicial review proceedings shall fall within the exclusive competence of the Budapest Administrative and Labour Court.

(3) The court shall have the powers to alter the decision of the Media Council.

**Article 165** (1) The client shall have the right to appeal against the regulatory decision of the Office passed according to this Act at the Media Council, with the exception of decisions against which no appeal may be lodged under the Act on the General Rules of Administrative Proceedings and Services or under this Act.

(2) The decision of the Office may be challenged under an appeal only by a client who has participated in the proceedings of the first instance.

(3) Review of the second instance decision of the Media Council may be requested only by the client, and as regards the provisions expressly applicable to him/her, the witness, the official witness, the expert, the interpreter, the holder of the object under inspection, the representative of the client and the liaison officer, by claiming infringement of law, at the court proceeding in administrative cases, within thirty days upon announcement of the regulatory decision, by lodging a statement of claim.

(4) The submission of the statement of claim shall not have a suspensive effect on the execution of the decision, the court may be requested to suspend the execution of the regulatory decision challenged by the statement of claim.

(5) The application for out-of-court proceedings against the orders of the Office which can be challenged by independent legal remedy shall be submitted within fifteen days of the notification of the order.

(6) The judicial review proceedings shall fall within the exclusive competence of the Budapest Administrative and Labour Court.

### **Specific Proceedings of the Authority**

**Article 166** In conducting its proceedings defined in Articles 68-70 and 167-181, the Authority shall apply the provisions of the Act on the General Rules of Administrative Proceedings and Services and this Act subject to the deviations determined for the various types of proceedings.

### **General Regulatory Supervision**

**Article 167** (1) At request or ex officio, the Authority, within the context of its scope of powers and responsibilities, shall have the right to supervise within a regulatory inspection or regulatory procedure the enforcement and observance of the provisions laid down in this Act and the Press Freedom Act, as well as fulfilment of the terms and conditions set forth in its regulatory decisions, broadcasting agreements and in the public contracts concluded by the Authority.

(2) Should the Authority establish infringement of the provisions laid down in its regulatory decision as revealed in the supervision of compliance with its regulatory decision, it shall assess, on the basis of all circumstances of the case, the facts revealed in the inspection, the gravity of the

infringement and the effective enforcement of rights, whether to resort to the enforcement procedure as defined in the Act on the General Rules of Administrative Proceedings and Services, or institute a regulatory procedure to apply the legal sanctions specified in this Act, in the case involving violation of the decision.

(3) The Authority shall have the right to apply the legal sanctions defined in Chapter V in cases of infringements revealed in the course of general regulatory supervision.

### **Market Surveillance**

**Article 168** (1) The Media Council, within its scope of competence, with a view to protecting the smooth, fruitful and diverse operation of the media market and protecting the interests of those engaged in media service distribution and media service provision, publishers of press products, viewers, listeners, readers, subscribers and users, as well as preserving the diversity of the national culture and opinions, promoting the maintenance of fair and effective market competition, familiarization with market trends and the comprehensive assessment, analysis and regulatory supervision of media policy considerations and other purposes defined in this Act, shall perform market surveillance activities.

(2) The specific market surveillance procedure may include a number of regulatory powers and official matter types, as defined in the Press Freedom Act and this Act, as a comprehensive regulatory procedure.

(3) The Media Council, in performing its duties defined under Paragraph (1), shall prepare an annual market surveillance plan by 1 December of the year preceding the subject year – taking into consideration the market surveillance experiences of the previous year – and shall publish the same on its website within fifteen days thereof. The Media Council shall ensure that its market surveillance plans are in accordance with one another. The plans may be reviewed on the basis of its findings made in the first six months at the end of that half, and – if necessary – the Media Council shall have the right to modify these plans accordingly. The Media Council shall post its modified market surveillance plan on its website within fifteen days of its modification.

(4) The market surveillance procedure shall be instituted *ex officio*.

(5) The administrative deadline of a market surveillance procedure shall be sixty days. The period may be extended in justified cases on one occasion, by forty-five days at the most.

(6) In its comprehensive and consolidated regulatory decision, the Media Council, as the purpose and as a result of the market surveillance procedure, shall

a) assess compliance of services and activities subject to the procedure with applicable legislation. In so doing, the Media Council shall establish the occurrence of infringements, make an assessment of these instances both on an individual and aggregate basis and shall determine the legal sanctions by suitably applying the provisions of Chapter V. In its market surveillance decision, the Media Council may impose obligations and define the terms of their fulfilment, when no infringement has occurred,

b) determine the directions, methods, criteria for development and reshaping (if any), and media policy conclusions of state intervention with a view to preventing infringement of legislation, promoting voluntary compliance with the law and smooth flow of market trends.

(7) The Media Council shall prepare an annual report on the fulfilment of the objectives in its market surveillance plans, the results and findings of its market surveillance operations and its proposals on amendment of legislation arising on the basis of market surveillance decisions. The Media Council shall post its report on its website within fifteen days of its approval.

(8) The Media Council shall have the right to conduct market surveillance activities *ex officio* beyond the scope of the market surveillance plan.

### **Inspection of the Media Market**

**Article 169** (1) With a view to assessing compliance with the provisions of this Act and revealing whether regulatory powers specified in this Act should be applied, when the price changes or other market circumstances suggest that competition in the media service market is being distorted or is restricted, the Media Council, in order to gather information on market trends and assess such trends, shall institute a regulatory inspection by its order.

(2) This procedure of the Media Council shall be without prejudice to the competence of the Hungarian Competition Authority to conduct an inspection under the Act on the Prohibition of Unfair and Restrictive Market Practices.

(3) The Media Council shall inform through public notice the media service providers of the commencement of the regulatory inspection, which – in deviation from the relevant provisions of the Act on the General Rules of Administrative Proceedings and Services – must contain the subject of the case and a brief description thereof. The explanatory section of the order shall designate the market conditions that gave rise to the inspection. The order shall be announced through public notice by posting on the bulletin board of the Authority and on the website of the Authority. The order on the institution of the procedure shall be deemed duly served on the fifteenth day from the posting of the notice on bulletin board of the Authority.

(4) The amount of the procedural fine that may be imposed in an inspection, taking into account the net sales revenue generated by the breaching entity in the previous year and the fact whether the offence was committed on one or more occasions, shall be equal to 0.5 % of the sales revenue of the breaching entity, or, in the absence of revenues or reporting on revenues, it shall be minimum fifty thousand forints and maximum fifty million forints. In addition, in case of non- or improper provision of data, the Media Council shall have the right, and in case of repeated infringement, shall be obliged, to impose a fine on the executive officer of the breaching media service provider in the amount between fifty thousand forints and three million forints.

**Article 170** (1) If the Media Council, on the basis of the findings of the regulatory inspection, establishes that the market trends under review may cause distortions or restrictions in competition in the market for media services, and in its opinion these circumstances may not be remedied by exercising the powers available according to this Act, it shall initiate that the commencement of the Hungarian Competition Authority's competition authority proceeding in the matter.

(2) The Hungarian Competition Authority will not commence the competition authority proceeding initiated by the Media Council as defined under Paragraph (1) if there is an inspection in progress in the same subject and for the same period or, if the Hungarian Competition Authority had already completed an inspection in the same subject for the same period beforehand. The Hungarian Competition Authority shall notify the Media Council of this fact.

(3) When there are no grounds for, or due to absence of competence it is impossible to initiate competition authority proceeding, or when the market distortion may not be remedied within the scope of competence of the Media Council or the Office, it shall duly notify the body entitled for legislation.

### **Proceedings of the Media Council as Special Authority**

**Article 171** (1) The Hungarian Competition Authority shall obtain the position statement of the Media Council for the approval of concentration of enterprises under Article 24 of the Act LVII of 1996 (hereinafter as: the Competition Act) on the Prohibition of Unfair and Restrictive Market Practices, which enterprises, or the affiliates of at least two groups of companies as defined in Article 15 of the Competition Act bear editorial responsibility and the primary objective of which is to distribute media content to the general public via an electronic communications network or a printed press product.

(2) If the level of independent opinion sources following the merger would still ensure the right for diversity of information within the particular market segment of media content service, then the Media Council, with the exception of the case defined in Article 68 (2), cannot reject granting an approval as special authority.

(3) With regard to applying the provision or condition imposed by the Media Council as special authority in a decision on the merits of a case, Article 30 (3) of the Competition Act shall appropriately apply.

(4) The position of the Media Council as special authority shall bind the Hungarian Competition Authority, however, this fact does not prevent the Hungarian Competition Authority from

a) prohibiting a merger that has already been approved officially by the Media Council as special authority, irrespective of any condition the Media Council may have set; or

b) imposing a condition or an obligation as defined in Article 30 (3) of the Competition Act that the Media Council has failed to set.

(5) The statutory period for the proceedings of the Media Council as a special authority shall be twenty days, which may be extended on one occasion by another twenty days. The statutory period of the competition authority proceeding shall not include the period of proceedings of the Media Council as special authority. Failure by the Media Council to issue its position within the prescribed statutory period shall be deemed as an approval on its part.

(6) The amount of the administrative service fee payable to the Media Council for its procedure as special authority shall equal two million forints, which is payable to the Hungarian Competition Authority together with the procedural fee as defined in Article 62 (1) of the Competition Act, except when the applicant had submitted a request for a prior approval of the special authority as defined under Paragraph (7).

(7) On payment of the administrative service fee defined under Paragraph (6), at the request of the applicant defined in Article 68 of the Competition Act, the Media Council shall issue prior approval as a special authority. The applicant shall have the opportunity to request prior approval until the date of submitting a request for approval of merger but not later than the end of the period defined in Article 28 (2) of the Competition Act, and this approval can be used within six months from the date of issue, provided that facts, the market and the regulatory circumstances decisive for the purposes of the approval have – remained unchanged since the date of the position issued by the special authority. The prior approval issued by the Media Council as special authority or the request for approval shall be attached to the form set forth in Article 68 (2) of the Competition Act. When a specific requirement or condition laid down in the prior approval issued by the Media Council as special authority contradicts an obligation or condition deemed necessary by the Hungarian Competition Authority in part or in full, the government entities involved shall proceed as described in Article 45 (2) of the Act on the General Rules of Administrative Proceedings and Services.

### **Proceeding in Case of Legal Disputes**

**Article 172** (1) In case of infringement of the rights or lawful interests concerning media administration – defined in an agreement concluded under a rule on media administration or in a rule on media administration – of a media service provider, an entity engaged in providing ancillary media services, a publisher of press products or a media service distributor, by another media service provider or media service distributor, and in cases defined in this Act, the affected party may resort to the Media Council to conduct a legal dispute procedure (hereinafter as: legal dispute procedure). The legal dispute procedure may be initiated within six months after the occurrence of the infringement. If the applicant gained knowledge about the infringement only subsequently or was otherwise prevented from filing the request, the period of six months shall start from the date of gaining knowledge or from the date the obstacle was overcome. The legal dispute procedure may not be



initiated after one year of occurrence of the infringement serving as ground for such procedure. This deadline shall represent the expiry of the limitation period.

(2) The application for conducting a legal dispute procedure shall clearly describe, in addition to the requisites defined in the provisions of the Act on the General Rules of Administrative Proceedings and Services on applications, the facts and circumstances serving as grounds for claims under Paragraph (1), the legislative and contractual provisions that provide the grounds for the application and verification of its rights and lawful interests.

(3) When the applicant requests the Media Council to bring the contract into existence or to determine its contents, he/she shall expressly and clearly define the particulars of the contractual provisions he/she wishes to be brought into existence or established, in a clear-cut text.

(4) The application may also include a motion for evidence.

(5) When the application for the legal dispute procedure does not contain or contains improperly the requisites laid down under Paragraph (2), the Media Council shall request the applicant to remedy deficiencies within eight days at the latest. Should the applicant fail to, or improperly remedy the deficiencies within the specific deadline, the Media Council shall reject the application within fifteen days without assessment of the case in its merits.

(6) When the application for the legal dispute procedure does not contain or contains improperly the requisites laid down under Paragraph (3), the Media Council shall request the applicant to remedy deficiencies with a deadline of five days. Should the applicant fail to, or improperly remedy the deficiencies within the specific deadline, the Media Council shall not adopt a decision in the context of bringing the contract into existence or determining its contents, and as regards the subject of the case and the infringement it shall adopt its decision in reliance on the data at its disposal, or it shall terminate the proceedings altogether.

(7) The Media Council shall send the application, provided that it does not reject the same without assessing the case in its merits, to the adverse client and shall request such client to submit its position and the evidence at its disposal within a period of ten days at the most and to concurrently send the same to the adverse client.

(8) If the Media Council holds a hearing in the course of the proceedings, it shall attempt to mediate a settlement between the parties in the course of the hearing.

**Article 173** (1) The parties and other stakeholders may attend the hearings as per Paragraph (8) of Article 172 in person or through their representatives, may make statements, put forward their comments and submit their pieces of evidence by the end of the hearing. The hearing shall not be public.

(2) Absence of persons duly summoned to and notified of the hearing shall not prevent the hearing from being held and the case from being concluded. In justified cases, persons summoned to and notified of the hearing may seek prior exemption from attending the hearing; in which case the Media Council shall have the right to postpone the hearing.

(3) Absence from the hearing may not be subsequently excused. However, if the Media Council deems necessary to hear one of the persons who failed to appear, then, with regard to the above and by setting a new date, the Media Council may postpone the hearing.

(4) Unless otherwise provided in this Act, the applicant shall provide credible evidence to verify the factual and legal grounding of the contents of the application.

(5) The Media Council shall have the right to call upon or oblige the adverse client to provide data and/or put forth statements on his/her part.

(6) The Media Council shall have the right to issue an interim injunction in the ongoing case at request or ex officio, if it can be established that in lack of such interim injunction the breach of the present Act – and in particular its core principles – will result in a grave and otherwise unavoidable infringement of rights or interests, or in the danger thereof, and provided that the disadvantages arising from issuing the injunction cannot exceed the advantages that may be achieved under the

injunction.

(7) As an interim injunction, the Media Council may order that the activity at issue be discontinued, may set the conditions for the activity and may also set obligations.

(8) The interim injunction shall be in place until the conclusion of the proceedings with a final force. During the proceedings the Media Council shall have the right to modify or cancel the interim injunction at request or ex officio.

(9) If the Media Council resorts to an interim injunction, the client may lodge an application for remedy against the interim injunction to the Budapest Administrative and Labour Court. The court will pass its ruling in the case in out-of-court proceedings within fifteen days. No appeal may be lodged against the order of the Budapest Administrative and Labour Court. The submission of the application shall not have suspending effect on the execution of the order.

(10) The Media Council will not issue a separate order on rejecting an application for an interim injunction; the grounds for rejection shall be set forth in the decision concluding the legal dispute procedure on its merits.

**Article 174** (1) In a legal dispute procedure, the Media Council shall have the right to bring into existence, modify and determine the contents of the agreement, if there is an obligation to contract under the rules on media administration and the parties fail to agree on the contents thereof, in case of an application in accordance with Article 172 (3).

(2) If under this Act a legal dispute procedure may be instituted also in relation to the consideration for the media service distribution and the media service, the Media Council may prohibit the further application of the consideration and shall have the right to set the amount of the rightful price within the framework of this Act and may oblige the media service provider or the media service distributor to apply such a rightful price.

## **Data Provision**

**Article 175** [*not in effect*]

### **Proceedings Against a Media Content Provider Established in Another Member State**

**Article 176** (1) When the linear audiovisual media service of a media service provider established in another Member State is aimed only at the territory of Hungary, the Media Council shall have the right to apply the legal sanctions defined in Article 187 (3) (c)-(d) regarding the media services distributed on the territory of Hungary, for the period of the infringement but up to one hundred eighty days at the most provided that the following conditions are met:

a) the media service clearly and materially violates Article 17 (1), Article 19 (1) or Article 19 (4) of the Press Freedom Act or Article 9 or Article 10 (1)-(3) of this Act,

b) the media service violated the provisions set forth under Paragraph (a) on at least two occasions within the twelve months prior to the decision to be issued by the Media Council under this Paragraph on the limitation of distribution;

c) Hungary, at the initiative of the Media Council, notified in writing the media service provider involved and the European Commission of the instances of infringement as defined in Point (a) and the measures the Media Council intends to take in case of future infringement; and

d) no agreement is made between Hungary and the Member State in which the media service provider is established within fifteen days from the notification defined in Point (c) on the basis of the consultations made with the Member State involved and the European Commission and the infringement described in Point (a) still exists or is committed repeatedly.

(2) The Media Council shall send the decision defined under Paragraph (1) to the European

Commission concurrently with the announcement thereof.

(3) If the European Commission obliges the Media Council to withdraw the decision passed under Paragraph (1) in a decision passed within two months of the notification defined under Paragraph (2), the Media Council shall proceed as provided for in the decision of the European Commission.

**Article 177** (1) When the on-demand audiovisual media service of a media service provider established in another Member State is aimed at the territory of Hungary or is distributed or published on the territory of Hungary, the Media Council shall have the right to apply the legal sanctions defined in Article 187 (3) (c)-(d) regarding the media services transmitted on the territory of Hungary, for the period of the infringement but up to one hundred eighty days at the most provided that the following conditions are met:

a) the measures are necessary for the protection of public order, the prevention, investigation and prosecution of criminal acts, necessary on account of infringement of the prohibition of inciting hatred against communities, for the protection of minors, public health, public security, national security and consumers and investors;

b) the measures are taken against a media service provider of an on-demand media service that violates or presents a serious risk on any of the interests defined in Point (a); and

c) the measure is proportionate to the interests to be protected.

(2) Prior to the institution of the proceedings intended for formulating the decision defined under Paragraph (1), the Media Council shall request the Member State under whose jurisdiction the media service provider rendering on-demand media services as defined under Paragraph (1) belongs to take appropriate measures. When the Member State fails to take, or improperly takes the measure within the reasonable time set forth in the request lodged by the Media Council, the Media Council shall send the draft version of the decision defined under Paragraph (1) to the European Commission and the particular Member State. If the European Commission obliges the Media Council to withdraw the draft decision, it shall proceed as provided for in the decision of the European Commission.

(3) In cases of exceptional urgency, and with a view to protecting viewers' interests, in the case defined under Paragraph (1) the Media Council shall have the right to pass a temporary decision. The temporary decision shall be enforceable with immediate effect. The Media Council shall send the temporary decision to the European Commission and the Member State involved concurrently with the announcement thereof. The Media Council shall resolve as to whether to uphold or withdraw the temporary decision as provided for in the decision of the European Commission.

**Article 178** (1) When the radio media service or the press product of a media content provider established in another Member State is aimed at, distributed or published on the territory of Hungary, the Media Council shall have the right to apply the legal sanction as defined in Article 187 (3) c) against the media service provider under its decision for the period of the infringement but up to one hundred eighty days, if the following conditions are met:

a) the measures are necessary for the protection of public order, the prevention, investigation and prosecution of criminal acts, necessary on account of infringement of the prohibition of inciting hatred against communities, for the protection of minors, public health, public security, national security and consumers and investors;

b) the measures are taken against a media content provider of radio media service or press product that violates or presents a serious risk on any of the interests defined in Point (a); and

c) the measure is proportionate to the interests to be protected.

(2) Prior to the institution of the proceedings intended for formulating the decision defined under Paragraph (1), the Media Council shall request the Member State under whose jurisdiction the media service provider rendering radio media services or the publisher of press product as defined under Paragraph (1) belongs to take appropriate measures. The Media Council may institute the proceedings defined under Paragraph (1) provided that the Member State fails to, or improperly takes the measure within the reasonable time set forth in the request lodged by the Media Council.

(3) In cases of exceptional urgency, and with a view to protecting listeners' and readers' interests, the Media Council shall have the right to pass an interim decision defined under Paragraph (1). The temporary decision shall be enforceable with immediate effect. The Media Council, concurrently with its announcement, shall send the temporary decision to the Member State under whose jurisdiction the media service provider rendering radio media services or the publisher of a press product as defined under Paragraph (1) belongs and shall request such Member State to take appropriate measures. When the Member State takes the measures within the reasonable time set forth in the request, the Media Council shall resolve on the withdrawal of the temporary decision, while in case of failure, or improper delivery of the measures, it shall resolve on upholding the temporary decision.

### **Proceedings Against a Media Content Provider Established in Another Member State in Case of Circumvention of the Law**

**Article 179** (1) This Act and Articles 13-20 of the Press Freedom Act shall be applicable to the linear audiovisual media service of the media service provider established in another Member State, in accordance with the provisions of Paragraphs (2)-(5) of this Act, on condition that the media service provider established in another Member State aims the particular linear audiovisual media service for use in the territory of Hungary in its entirety or to a large extent and the media service provider was established outside the territory of Hungary with a view to avoid the applicability of more stringent rules thereon under this Act and the Press Freedom Act.

(2) In its assessment as to whether the conditions defined under Paragraph (1) are met, the Media Council shall examine, among others, in which of the Member States the major sources of the advertisement and subscription revenues of the media service provider established in another Member State are to be found as regards its linear audiovisual media service, which is the primary language of the media service, in which Member State can the majority of its broadcast sites be found, and which Member State's audiences the programmes within the media services are addressed to.

(3) When the conditions defined under Paragraph (1) are met, on infringement of the provisions of this Act and the Press Freedom Act, the Media Council shall request measures to be taken by the Member State under whose jurisdiction the media service provider rendering the media service defined under Paragraph (1) belongs.

(4) The Media Council may apply the legal sanctions as defined in Article 187 (3) (b)-(d) against the media service provider defined under Paragraph (1) under its decision when it established that the Member State with jurisdiction as defined under Paragraph (3) failed to take the measures within two months, or improperly took such measures.

(5) The Media Council shall send the draft decision defined under Paragraph (4) to the European Commission prior to the notification thereof. If the European Commission obliges the Media Council to withdraw the draft decision, it shall proceed as provided for in the decision of the European Commission.

**Article 180** (1) This Act and Articles 13-20 of the Press Freedom Act shall be applicable to the radio media service and the press product of the media content provider established in another Member State in accordance with the provisions of Paragraphs (2)-(3) hereunder, on condition that the media service provider established in another Member State aims the particular radio media service or press product for use in the territory of Hungary in its entirety or to a large extent, and the media content provider was established outside the territory of Hungary with a view to avoid the applicability of more stringent rules thereon under this Act and the Press Freedom Act.

(2) In its assessment as to whether the conditions defined under Paragraph (1) are met, the Media Council shall examine, among others, in which of the Member States the major sources of the advertisement and subscription revenues of the media content provider established in another

Member State are to be found as regards its radio media service or press product, which is the primary language of the media service or press product, in which Member State can the majority of its broadcast and report sites be found, and which Member State's audiences the programmes and other media content within the media services or press product are addressed to.

(3) When the conditions defined under Paragraph (1) are met, the Media Council, on infringement of the provisions of this Act or the Press Freedom Act, shall request measures to be taken by the Member State under whose jurisdiction the media service provider rendering the media service or the publisher of the press product defined under Paragraph (1) belongs.

(4) The Media Council may apply the legal sanctions as defined in Article 187 (3) (b)-(c) against the media service provider defined under Paragraph (1) under its decision when it established that the Member State with jurisdiction as defined under Paragraph (3) failed to take the measures within two months, or improperly took such measures.

### **Proceedings in Case of Infringement of the Obligation of Balanced Coverage**

**Article 181** (1) In case of infringement of the obligation of balanced coverage defined in Article 13 of the Press Freedom Act and Article 12 (2) of this Act, the holder of the viewpoint that was not expressed, or any viewer or listener (hereinafter for the purposes of Paragraphs (2)-(6): applicant) may initiate a regulatory procedure. The powers to assess a request concerning the media services rendered by media service providers with significant market power and the public media service provider shall be with the Media Council, while in case of other media services with the Office. The Authority shall not have the right to institute proceedings ex officio in case of infringement of the obligation of balanced coverage.

(2) Prior to requesting regulatory procedure defined under Paragraph (1), the applicant shall resort to the media service provider with its objection. The applicant, within seventy-two hours from the broadcast of the contested information or, in case of re-broadcast, from the date of the last broadcast, shall have the right to request in writing that the media service provider broadcast the viewpoint required for a balanced coverage, properly, under circumstances similar to the contested information. The applicant may not exercise his/her right of challenge if another representative of the same viewpoint has already been given an opportunity to present the viewpoint not presented earlier, or if this opportunity has been given to the applicant but has failed to take advantage thereof.

(3) The media service provider shall decide on the acceptance or refusal of the objection within forty-eight hours of the receipt thereof. The decision shall be communicated to the applicant in writing without delay. The applicant, within forty eight hours of the decision being notified, shall have the right to initiate at the Authority that a regulatory procedure be instituted, or, when the decision is not communicated, within ten days of the broadcast of the challenged or objected communication, together with the exact name of the challenged programme and the particular media service provider. A procedure may also be initiated at the Authority if the media service provider fails to comply with the contents of the objection in spite of its statement of acceptance. In this case, the regulatory procedure must be initiated at the Authority within forty-eight hours of the expiry of the deadline undertaken for complying with the objection. The statutory period of proceedings conducted by the Authority shall be fifteen days, which may be extended in justified cases on one occasion, by eight days at the most.

(4) At the request of the Authority, the media service provider shall furnish the Authority with the recording of the challenged programme without delay.

(5) Should the Authority, in its decision, establish that the media service provider has infringed the obligation of balanced coverage, the media service provider shall broadcast or publish the decision passed by the Authority or the notice defined in the decision, without any assessing comment thereon,



as provided for in the decision of the Authority, in the manner and at the time specified by the Authority, or shall provide an opportunity for the applicant to present his/her viewpoint. In addition to the foregoing, the legal sanctions as defined in Articles 186-187 may not be applied against the breaching entity.

(6) The procedure defined under Paragraphs (1)-(5) shall be exempt from dues and charges, and the applicant may not be obliged to pay administrative service fee either.

(7) The provisions of Article 165 shall be applied respectively in terms of the legal remedy available against the decision of the Office passed within the framework of the regulatory procedure as per this Article, with the provision that a judicial review of the Media Council's decision of the second instance may be requested from the Budapest Administrative and Labour Court by the client and by any other participant in the proceeding as regards the provisions expressly applicable to him/her, within fifteen days of the decision's announcement, on the grounds of breach of law. The Media Council shall forward the statement of claim, together with the documents and representations of the case, to the Budapest Administrative and Labour Court within fifteen days of receipt thereof. The court shall assess the statement of claim for a judicial review within sixty days from the submission of the statement of claim by the Media Council to the court and shall put down its decision in writing until the day of its announcement. No appeal may be lodged against the decision of the court and no retrial can be requested. The petition for review of the decision can be lodged within fifteen days from announcement of the decision, with the provision that the petition for review must be actually received by the Budapest Administrative and Labour Court within the time limit set for filing. If this deadline (limitation period) is missed, no petition for excuse will be accepted. The Curia shall assess the petition for review within forty five days and shall put down its decision in writing within this deadline. The Budapest Administrative and Labour Court and the Curia shall hold an accelerated procedure.

(8) A judicial review of the decision of the Media Council passed within the framework of the regulatory procedure of the first instance as per this Article may be requested from the Budapest Administrative and Labour Court by the client and by any other participant in the proceeding as regards the provisions expressly applicable to him/her, within fifteen days of the decision's announcement, on the grounds of breach of law. The Media Council shall forward the statement of claim, together with the documents and representations of the case, to the Budapest Administrative and Labour Court within fifteen days of receipt thereof. The court shall assess the statement of claim for a judicial review within sixty days from the submission of the statement of claim by the Media Council to the court and shall put down its decision in writing until the day of its announcement. No appeal may be lodged against the decision of the court and no retrial can be requested. The petition for review of the decision can be lodged within fifteen days from announcement of the decision, with the provision that the petition for review must be actually received by the Budapest Administrative and Labour Court within the time limit set for filing. If this deadline (limitation period) is missed, no petition for excuse will be accepted. The Curia shall assess the petition for review within forty five days and shall put down its decision in writing within this deadline. The Budapest Administrative and Labour Court and the Curia shall hold an accelerated procedure.

### **The Scope of Powers and Responsibilities of the Authority**

**Article 182** Acting in its regulatory powers, the Media Council, in accordance with Article 132,

a) shall perform general regulatory supervision over public contracts concluded thereby;

b) shall perform regulatory supervision regarding the following statutory provisions defined in this

Act:

ba) standards on the protection of children and minors;

bb) standards on the broadcast of events of major importance;

- bc) *[not in effect]*
- bd) provisions on extraordinary situations concerning media services;
- be) requirements on programme quotas;
- bf) requirements defined in Articles 23-25 on commercial communications;
- bg) provisions on product placement;
- bh) provisions on political advertisements, public service announcements and public service advertisements [except for the provisions of Article 32 (7)];
- bi) requirements on advertisements and teleshopping as defined in Article 33;
- bj) must-carry obligation rules applicable to media service distributors;
- bk) obligations related to the offering of media services;
- bl) provisions on the diversity of media service distribution;
- bm) rules on the performance of tasks in public media service;
- c) shall supervise compliance with the requirements laid down in Article 14 and Articles 16-20 of the Press Freedom Act,
- d) shall exercise the regulatory powers in relation to infringements committed by media content providers established in another Member State;
- e) shall adopt a regulatory decision on the rating of a programme, at the request of a media service provider;
- f) shall conclude a public contract with the media service provider on exemption from the requirements on programme quotas;
- g) shall determine the amount of the media service provision basic fee;
- h) shall perform the tasks concerning the tendering of media service provision rights for radio and concerning media service provision rights granted for performing public duties;
- i) shall proceed in official matters related to the renewal of media service provision rights for analogue, linear media services;
- j) shall proceed in official matters related to media service public contracts;
- k) shall perform the tasks related to the connecting to the network by media service providers and extension of reception area;
- l) shall exercise the powers on the classification of media service provision as community media service provision, and shall supervise their operation;
- m) shall identify the media service providers with significant market power and shall define the obligations encumbering media service providers with significant market power;
- n) shall act in the context of fulfilment of obligations defined for media service providers with significant market power, excluding obligations defined in Article 39;
- o) shall perform the regulatory tasks related to control over market concentrations;
- p) shall conduct an inspection in the media market;
- q) shall conduct market surveillance procedure;
- r) shall act in legal disputes defined in this Act;
- s) shall perform the tasks related to public contracts on temporary media service provision;
- t) shall perform its tasks as a special authority in cases defined in this Act and the Act on the Prohibition of Unfair and Restrictive Market Practices;
- u) shall proceed in relation to complaints on imbalanced coverage that may arise in media services provided by media service providers with significant market power and by the public media service provider [under Article 13 of the Press Freedom Act and Article 12 of this Act];
- v) *[not in effect]*
- x) shall determine under its regulatory decision the public service media services and community media services falling under a must carry obligation [Article 75 (3)];
- y) shall perform regulatory tasks related to the proceedings and decisions of self-regulatory bodies;
- z) shall exercise other regulatory powers as defined by law.

**Article 183** (1) Acting in its non-regulatory powers, the Media Council, in accordance with Article 132,

a) shall elaborate the recommendations on classifications of media content prescribed for the protection of minors;

b) shall elaborate the recommendations on requirements for the effective technical solution to enable access to media content for viewers or listeners over eighteen years of age only;

c) may publish its recommendations on ensuring compliance of product placement and the relevant call with the provisions of this Act;

d) shall provide information to the Parliament on the observance of the constitutional principle of the freedom of the press and the reasons and circumstances of exemptions from programme quotas granted to media service providers;

e) shall decide on the reallocation of approved budgetary appropriations of expenditures;

f) shall define and publish its rules of procedure;

g) shall provide its opinion on draft legislation concerning spectrum management and communications;

h) shall prepare positions and recommendations in certain media policy issues;

i) shall formulate the concept of spectrum management effecting media service provision;

j) shall prepare an annual report for the Parliament on the operation of the Media Council and the Office;

k) shall manage the Fund, accept the subsidy policy, annual plan and report of the Fund, define and publish the detailed rules on the management of the Fund and approve the general conditions of tendering elaborated by the Fund;

l) shall prepare a report for the European Commission on certain programme flow structure requirements;

m) shall elaborate the rules concerning the utilization of assets handed over to the Public Service Foundation and asset management;

n) shall cooperate with the media authorities of other Member States;

o) shall supervise the operation of the Institute for Media Studies;

p) shall perform the non-regulatory tasks related to the actions of self-regulatory bodies;

q) shall prepare the list of events of major importance for society;

r) shall perform other, non-regulatory, tasks defined by law.

(2) The Media Council shall be responsible for implementing regulation 2006/2004/EC of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws in relation to intra-Community infringements of the laws of the Member States transposing Articles 19-26 of Directive 2010/13/EU of the European Parliament and of the Council on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services. In so doing, the Media Council shall proceed in the context of mutual assistance in accordance with Commission Directive 2007/76/EC.

**Article 184** (1) The Office, acting in its regulatory powers, shall

a) maintain the official registers defined in this Act;

b) determine the amount of the media service provision fee payable by media service providers having acquired the right for media service provision through registration;

c) supervise observance of the following provisions of this Act:

ca) the provisions of Article 32 (7) on political advertisements, public service announcements and public service advertisements;

cb) regulations on advertisements published in public and community media service and public service announcements (Article 36);

cc) regulations on programmes made accessible to people with a hearing disability (Article 39);

cd) regulations on changes in the ownership structure and other data of media service providers, publishers of press products and ancillary media service providers, the relevant reporting of such changes and the publication of certain data;

ce) regulations on the ownership structure of the linear media service provider and ownership concentration of companies (Article 43);

cf) provisions on media content with violence and suitable to raise disturbance and regulations on the protection of religious convictions (Article 14);

cg) certain provisions on advertisement and teleshopping (Articles 34-35);

ch) regulations on the sponsorship of media services and programmes (Articles 26-29);

ci) the obligations to provide data set forth in Article 175 (12);

d) perform the tasks related to the discontinuation and termination of media service provision right in the event of failure to commence service provision;

e) act in the settlement of complaints involving the obligation to provide balanced information, excepting cases defined in Article 182 (u) (Article 13 of the Press Freedom Act and Article 12 of this Act);

f) check observance of obligations on transmission of public media services (Article 74);

g) check observance of the provisions on general contractual framework and conditions within the context of the obligation to offer media services (Article 79);

h) exercise other powers vested with it as defined by law.

(2) The Office, acting in its non-regulatory powers, shall

a) perform the preparatory tasks in cases falling within the scope of powers and responsibilities of the Media Council;

b) perform the preparatory tasks regarding the procedure for tendering media service provision rights, hold a public hearing;

c) perform market analysis, assessment and other inquiry activities by the programme monitoring and analysis service;

d) shall perform other non-regulatory tasks defined by law.

## Chapter V

### LEGAL SANCTIONS APPLICABLE IN CASE OF INFRINGEMENT

**Article 185** (1) The Media Council or the Office shall have the right to apply the legal sanction on parties infringing rules on media administration in accordance with the provisions of Articles 186-189.

(2) In applying the legal sanction, the Media Council and the Office, under the principle of equal treatment, shall act in line with the principles of progressivity and proportionality; shall apply the legal sanction proportionately, in line with the gravity and rate of re-occurrence of the infringement, taking into account all circumstances of the case and the purpose of the legal sanction.

**Article 186** (1) When the infringement is of minor significance and no re-occurrence can be established, the Media Council or the Office, on noting and warning on the fact of the infringement, may request, setting a deadline of thirty days at the most, that the infringer discontinue its unlawful conduct, refrain from infringement in the future and act in a law-abiding manner and may also set the conditions thereof.

(2) In the context of the request defined under Paragraph (1), the considerations defined in Article 187 (2) shall not be applicable.

(3) When, considering all the circumstances of the case, the request may not be applicable or would prove inefficient to force compliance with the obligation to discontinue the infringement, the Media Council or the Office, without stating the reasons for dispensing with making a request, shall prohibit the unlawful conduct and/or may set obligations to ensure observance of the provisions of this Act

and may apply legal sanctions.

**Article 187** (1) In case of repeated infringement, the Media Council and the Office shall have the right to impose a fine on the executive officer of the infringing entity in an amount not exceeding two million forints, in line with the gravity, nature of the infringement and the circumstances of the particular case.

(2) The Media Council and the Office shall impose the legal sanction, depending on the nature of the infringement, taking into account the gravity of the infringement, whether it was committed on one or more occasions, or on an ad hoc or continuous basis, its duration, the pecuniary benefits earned as a result of the infringement, the harm to interests caused by the infringement, the number of persons aggrieved or jeopardized by the harm to interests, the damage caused by the infringement, the violation of personality rights and the impact of the infringement on the market, and other considerations that may be taken into account in the particular case.

(3) The Media Council and the Office, taking into account Paragraph (7), shall have the right to impose the following legal sanctions:

a) it may exclude the infringer for a definite period of time from the opportunity to participate in the tenders of the Fund;

b) it may impose a fine on the infringer in line with the following limits:

ba) in case of infringement by a media service provider with significant market power and a media service provider affected by the regulations on the limitation of media market concentration, the fine shall be of an amount not exceeding two hundred million forints;

bb) in case of infringement by a media service provider not covered under Point (ba), the fine shall be of an amount not exceeding fifty million forints;

bc) in case of a daily newspaper of nationwide distribution, the fine shall be of an amount not exceeding twenty-five million forints;

bd) in case of a weekly newspaper or periodical of nationwide distribution, the fine shall be of an amount not exceeding ten million forints;

be) in case of other daily newspapers or weekly newspapers or periodicals, the fine shall be of an amount not exceeding five million forints;

bf) in case of an online press product, the fine shall be of an amount not exceeding twenty-five million forints;

bg) in case of a media service distributor, the fine shall be an amount not exceeding five million forints;

bh) in case of an intermediary service provider, the fine shall be of an amount not exceeding three million forints;

c) the infringer may be obliged to publish a notice or the decision on the opening page of its website, in a press product or a designated programme in the manner and for the period of time specified in the decision;

d) it may suspend the exercise of the media service provision right for a specific period of time:

da) the period of suspension may last from fifteen minutes up to twenty four hours;

db) the period of suspension in case of serious violation of law may last from one hour up to forty eight hours;

dc) the period of suspension in case of repeated and serious violation of law may last from three hours up to one week;

e) it may delete the media service from the register as defined in Article 41 (4) in which the infringement was committed and may terminate the public contract on the media service provision right with immediate effect on repeated serious violation of law by the infringer. The media service deleted from the register may not be made accessible for the public once it has been deleted.

(4) For the purposes of Paragraphs (1)-(3), the infringement shall be deemed as committed repeatedly when the infringer committed the unlawful conduct established in the final regulatory



decision on the same legal basis and in breach of the same provisions of legislation, in the same subject, repeatedly within three hundred sixty-five days, not including minor offences. In the case of breach of Articles 20-21, 22 (2), 22 (3), 22 (5) and 22 (6), the infringement shall be considered as committed repeatedly if the infringer repeatedly commits the infringing conduct determined under the final and binding regulatory decision, on the same legal basis and in breach of the same provisions of legislation, within three years.

(5) The legal sanctions defined under Paragraph (3) may also be imposed jointly.

(6) Media service provider of a linear media services may be subjected to the legal sanctions defined under Paragraph (3) (a)-(e), providers of on-demand or ancillary media services to the legal sanctions defined under Paragraph (3) (a)-(d), and publishers of press products to the legal sanctions defined under Paragraph (3) (b)-(c).

(7) The power to apply legal sanction defined under Paragraph (3) (e) shall be with the Media Council.

(8) In case of media service providers with broadcasting agreements the penalty defined in the contract and other legal sanctions may be enforced by the Media Council against the media service providers only by way of an administrative procedure.

### **Responsibility of Media Service Distributors and Intermediary Service Providers for Transmission of Media Services and Press Products**

**Article 188** (1) The media service distributor may be obliged to suspend or terminate the transmission of the media service specified, in accordance with Article 189, by virtue of the regulatory decision adopted by the Media Council, acting in its regulatory powers.

(2) Intermediary service providers may be obliged to suspend the broadcasting of media services and online press products, in line with Article 189, by virtue of the regulatory decision adopted by the Media Council, acting in its regulatory powers.

(3) The media service distributor shall not be responsible for the content of the programme flow of the broadcaster under the jurisdiction of a state party to the Agreement on the European Economic Area and European Convention on Transfrontier Television and in its supplementary Protocol signed in Strasbourg on 5 May 1989 and promulgated by Act XLIX of 1998. The media service distributor, however, may be obliged, by virtue of the regulatory decision adopted by the Media Council, acting in its regulatory powers, to suspend the distribution of the media service under Article 189, taking into account of the provisions of Articles 176-180.

**Article 189** (1) When the Media Council resorts to the legal sanction against the media service provider defined in Article 187 (3) (e), the media service distributor shall, on the basis of the regulatory decision issued in an ex officio regulatory procedure by the Media Council after the decision has become final, terminate the distribution of the media service constituting the subject of the decision containing the applicable legal sanctions.

(2) When, in case of repeated infringement, the Media Council or the Office applies legal sanctions defined in Article 187 (3) (b)-(d) against the media service provider, and the media service provider fails to fulfil the terms of the final and executable decision containing legal sanctions at the request of the Media Council or the Office, the media service distributor may be obliged to suspend the distribution of the media service subject to the regulatory decision adopted in an ex officio regulatory procedure by the Media Council, and containing legal sanctions.

(3) When, in case of on-demand or ancillary media services, the Media Council or the Office applies legal sanctions defined in Article 187 (3) (b)-(d) against the media service provider, and the media service provider fails to fulfil the terms of the final and executable decision containing legal sanctions at the request of the Media Council or the Office, the intermediary service provider may be obliged to suspend the broadcasting of the linear, on-demand or ancillary media service subject to the

regulatory decision adopted in an ex officio regulatory procedure by the Media Council and containing legal sanctions.

(4) When, in case of online press products, the Media Council or the Office applies legal sanctions defined in Article 187 (3) (b)-(c) against the publisher of the press product, and the publisher fails to fulfil the terms of the final and executable decision containing legal sanctions at the request of the Media Council or the Office, the intermediary service provider may be obliged to suspend the transmission of the online press product subject to the regulatory decision adopted in an ex officio regulatory procedure by the Media Council and containing legal sanctions.

(5) The decision mentioned in Paragraphs (1)-(4) shall contain the method, terms, performance deadline, and period of the termination or suspension, as well as the bearing and reimbursement of the costs associated with the termination or suspension of the distribution or broadcasting of the media service by the media service distributor and intermediary service provider, or with the suspension of the broadcasting of the press product.

(6) The period of suspending the distribution or broadcasting set forth in Paragraphs (2)-(4) shall be proportionate to the weight and extent of the underlying legal sanction, and may not exceed the date of performance by the media service provider or by the publisher of the online press product – as set forth in the relevant final and enforceable decision – increased by the period necessary to terminate the suspension. The period of terminating the suspension by the media service distributor or intermediary service provider may not exceed fifteen days, including the notification of the media service distributor or intermediary service provider by the Media Council.

(7) The costs incurred by the media service distributor or intermediary service provider in connection with the termination or suspension of media service distribution or broadcasting shall be borne by the condemned media service provider or publisher of the press product.

(8) No appeal may be lodged against the decision of the Media Council as defined under Paragraphs (1)-(4). The client may seek review of the decision by claiming infringement of law, from the court proceeding in administrative cases within fifteen days of notification of the regulatory decision. The court will pass its decision, based on the hearing of the parties, if necessary, in out-of-court proceedings within fifteen days. The submission of the application for out-of-court proceedings shall not have a suspensive effect on the enforcement of the decision. The court may not be requested to suspend the execution of the regulatory decision challenged by the application, and it may not be suspended by the court. The decision shall be enforceable immediately, irrespective of the filing of the application for an out-of-court proceeding. No appeal may be lodged against the order of the Budapest Administrative and Labour Court.

(9) If the media service distributor or the intermediary service provider fails to comply with the provisions of the decision under Paragraphs (1)-(4), the Media Council shall launch a regulatory procedure against the media service distributor or the intermediary service provider and may apply the legal sanctions set forth in Article 187 (3) (bg) or (bh).

(10) The provisions laid down in Article 188 and in this Article may not be applied until the decision of the court of first instance is adopted in the course of judicial review proceeding initiated on the suspension of the execution of the decision containing the legal sanction set forth in this Article, and may not be applied – until the final closure of the respective public administration lawsuit – if the court had suspended the execution of the decision containing the legal sanction.

## Chapter VI CO-REGULATION IN MEDIA ADMINISTRATION

### General rules

**Article 190** (1) With a view to effective achievement of the objectives and principles set forth in this Act and the Press Freedom Act, facilitating voluntary observance of law and achieving a more flexible system for law enforcement on media administration, the Media Council shall cooperate with the professional self-regulatory bodies and alternative dispute resolution forums of media service providers, ancillary media service providers, publishers of press products, media service distributors and intermediary service providers (hereinafter for the purposes of this Chapter: self-regulatory bodies).

(2) In the context of the cooperation defined under Paragraph (1), the Media Council shall have the right to conclude an administrative contract with a self-regulatory body established and operating in accordance with the pertaining legislation, with a view on the shared administration of cases falling within the regulatory powers expressly specified below, as defined in the present Chapter, and the cooperative performance of tasks, related to media administration and media policy, not defined as regulatory powers under legislation, but nevertheless compliant with the provisions of this Act.

**Article 191** (1) Under the administrative contract defined in Article 195 (hereinafter as: administrative contract), the Media Council shall have the right to authorise the self-regulatory body to perform self-management tasks, as non-regulatory tasks, in relation to its registered members and media service providers, media service distributors, intermediary service providers or publishers of press products agreed to be bound by the terms of the Code of Conduct as defined in Article 194 (hereinafter jointly as: undertakings under the scope of the Code) in official matters specifically defined in Article 192 (2), within the powers vested with it under the administrative contract, prior to specific exercise of regulatory powers.

(2) The authorisation granted under Paragraph (1) shall not vest public administrative, executive and regulatory powers on the self-regulatory body, and the self-regulatory body shall not be deemed as an administrative authority, or a subject of the system of public administration under this authorisation.

(3) The authorisation granted under the administrative contract shall not prejudice the powers of the Media Council under this Act, the Media Council shall have the right to act in official matters, irrespective of this authorisation, subject to the provisions of this Chapter.

**Article 192** (1) The Media Council shall conclude the administrative contract with the self-regulatory bodies fulfilling the conditions set forth in Article 190 (2), whose registered scope of activities covers or directly affects the official matter for which the authorisations was granted and that maintain a precise and verifiable register of the undertakings under the scope of the Code.

(2) In the administrative contract, the Media Council shall have the right to grant authorisations to self-regulatory bodies to manage the following types of official matters as non-regulatory tasks, in relation to the undertakings under the scope of the Code:

a) exercise supervision regarding compliance with Articles 14 and 16-20 of the Press Freedom Act or any of those provisions in relation to printed press products,

b) exercise supervision regarding compliance with Articles 14 and 16-20 of the Press Freedom Act or any of those provisions in relation to online press products,

c) exercise supervision regarding compliance with Articles 14 and 16-20 of the Press Freedom Act or any of those provisions in relation to on-demand media services,

d) exercise supervision regarding compliance with Part Two, Chapter I of this Act or any of those provisions in relation to on-demand media services.

(3) The authorisation granted to the self-regulatory body by the Media Council for the official matter type defined under Paragraph (2) shall cover:

a) handling individual cases related to undertakings under the scope of the Code (including the procedure on applications and complaints involving the activities of the members);

b) settlement of disagreements and legal disputes – involving the scope of the authorisation – between undertakings under the scope of the Code;

c) supervision of the operation and conduct of undertakings under the scope of the Code in relation to the authorisation.

**Article 193** (1) Under the administrative contract, the Media Council and the self-regulatory body may agree on joint performance of tasks, and implementing principles of activity and service development, programmes of public concern not regulated in legislation but closely linked to media administration and media policy, and any other objective related to media.

(2) The rules on the tasks of the self-regulatory body, under an authorisation in an administrative contract, defined in this Chapter are laid down in detail in the administration contract.

(3) The Authority shall have the right to provide financing for the self-regulatory body to perform its tasks defined in this Chapter; the self-regulatory body shall give an account of its usage to the Authority each year by 31 May, on an item-by-item basis.

**Article 194** (1) The administrative contract concluded by the self-regulatory body and the Media Council shall include a professional code of conduct as a substantive part thereof, developed by the self-regulatory body, defining the self-regulatory performance of tasks as defined in this Chapter (hereinafter as: Code of Conduct).

(2) The Code of Conduct shall be prepared by the self-regulatory body in the course of the conclusion of the administrative contract and shall be sent to the Media Council for consultation purposes. The Media Council shall examine the Code of Conduct as to whether it complies with relevant legislation. The condition for the validity of the conclusion of the public contract shall be that an agreement is reached by and between the Media Council and the self-regulatory body concerning the Code of Conduct.

(3) The Code of Conduct shall specify in detail, within the scope of the authorisations granted in accordance with Article 192, the provisions on proceedings and guarantees related to the self-regulatory tasks to be performed by the self-regulatory body, the relevant rights and obligations of the members, the relationship between the members and the self-regulatory body, within the context of the authorisation, and the types, system and the legal impacts of decisions, within the discretion of the self-regulatory body.

(4) In addition to the provisions of Paragraph (2), the substantive part of the Code of Conduct shall describe the rules, conditions and requirements concerning the activities, services and conduct designated by the scope of the authorisation.

**Article 195** (1) The relationship between the Media Council and the self-regulatory body under this Chapter shall be regulated by the parties in detail in the administration contract.

(2) The Media Council shall pass a decision in relation to the conclusion of the administrative contract.

(3) The administrative contract may be concluded in writing only.

(4) The Media Council, following the conclusion of the administrative contract, shall have the right to inspect the register maintained on the undertakings under the scope of the Code and may request that the self-regulatory body provide data from the register so that it may perform its tasks defined in this Chapter concerning the self-regulatory body.

(5) In respect of administrative contracts, the general provisions of the Civil Code of Hungary shall apply, subject to the provisions of this Act.

**Article 196** (1) The Media Council shall have the right to terminate the administrative contract with immediate effect, in the event that the self-regulatory body:

a) commits a grave or repeated breach of the provisions of the administrative contract; or

b) performs its tasks defined in the administrative contract in deviation from the agreement terms or the terms of the Code of Conduct.

(2) The administrative contract concluded for an indefinite period of time may be terminated by either of the parties with a thirty day notice.

## Proceedings of the Self-regulatory Body

**Article 197** (1) The self-regulatory body shall act in official matters subject to the authorisations granted thereto in relation to its members as an entity performing the tasks within its own scope of competence and not as tasks under the regulatory powers of authorities, as provided for in this Chapter and the administrative contract. In so doing, its involvement shall have priority over and supplement the activities of the Media Council acting in its regulatory powers (hereinafter as: self-regulatory procedure).

(2) In official case types defined in the administrative contract the Media Council shall have the right to proceed against the members of the self-regulatory body only if in its opinion the particular action of the self-regulatory body does not comply with relevant legislation or the provisions of the administrative contract concluded by the parties.

(3) The self-regulatory procedure on the part of the self-regulatory body shall precede the regulatory procedure of the Media Council.

(4) The self-regulatory body shall be responsible for elaborating, accepting and enforcing an internal regulation of procedure regarding its members that is capable of ensuring proper and effective performance of tasks defined in this Chapter and the appropriate observance of the rules contained in this Chapter. When due to failure to fulfil the provisions set forth above, the self-regulatory body is unable to properly perform its tasks defined in this Chapter and the administrative contract concluded with the Media Council, the Media Council shall have the right to terminate the administrative contract.

**Article 198** (1) The self-regulatory body shall act upon an application requesting its self-regulatory procedure. Irrespective of the foregoing, the self-regulatory body shall also have the right to institute proceedings in cases falling within its scope of competence based on its own decision.

(2) The statutory period for the self-regulatory procedure by a self-regulatory body shall be thirty days, which – in justified cases and with due heed to the complexity of the case and the difficulties that may arise in revealing the facts of the case – may be extended by fifteen days. A shorter period may also be provided for under the administrative contract.

(3) When the Media Council receives an application in a subject falling within self-regulatory procedure, it shall forward the application to the self-regulatory body, considering the membership of the self-regulatory body and other associations subject to the Code of Conduct. When the case does not fall within the competence of the self-regulatory body after all, or the undertaking involved in the application is not subject to the Code of Conduct, the self-regulatory body shall forthwith return the application to the Media Council. When the self-regulatory body institutes its proceedings on the basis of the application forwarded by the Media Council, it shall refund to the applicant any dues and fees paid concurrently with the initiation of the proceedings of the Media Council.

(4) In the case defined under Paragraph (2), the application for the initiation of the proceedings of the Media Council shall not be deemed as an application giving rise to the obligation to institute proceedings as defined in the Act on the General Rules of Administrative Proceedings and Services, except when the application is returned by the self-regulatory body to the Media Council. In such cases, the regulatory procedure of the Media Council shall be commenced on the day that the application returned by the self-regulatory body arrives to the Media Council.

(5) When the self-regulatory body receives an application that falls beyond the scope of its competence but is related to the powers of the Media Council, the self-regulatory body shall forthwith inform the applicant about the relevant powers of the Media Council, the opportunities to initiate proceeding and the rules thereof.

**Article 199** (1) The self-regulatory body shall assess the application in light of this Chapter, the administrative contract concluded with the Media Council and in particular the Code of Conduct constituting an integral part thereof and shall pass its decision in the case. The decision of the



self-regulatory body has a binding force on the undertakings subject to the Code of Conduct and may set forth obligations. When the decision sets forth obligations, the self-regulatory body shall set an appropriate deadline to allow compliance therewith. The self-regulatory body shall inform the Media Council of the decision containing obligations within ten days of the expiry of the deadline. The Media Council shall review the decisions containing obligations sent by the self-regulatory body. When the review of the self-regulatory body's decision is requested by the applicant or the party obliged under the decision, the Media Council shall review such decision within thirty days.

(2) When the Media Council establishes that the decision of the self-regulatory body does not comply with the provisions of the administrative contract concluded with the self-regulatory body and in particular the provisions of the Code of Conduct, or when in its judgement the decision contradicts legislation, or when it establishes that the self-regulatory body is unable to have its decision properly observed, it will institute a regulatory procedure in the case covered by the application. In its procedure the Media Council shall not be bound by the procedure and decision of the self-regulatory body.

**Article 200** (1) The proper and effective performance of the tasks and activities falling beyond the scope of the regulatory powers of the Media Council but covered by the administrative contract concluded with the self-regulatory body shall be an independent task of the self-regulatory body, in line with practice formulated thereby. The Media Council shall cooperate with the self-regulatory body on a continuous basis, providing support and incentive for performing its tasks.

(2) The parties shall notify one another on a continuous basis of their experiences regarding the performance of non-regulatory tasks defined under Paragraph (1) and the execution of other procedures. The self-regulatory body shall perform these tasks based on the administrative contract concluded with the Media Council and the Code of Conduct constituting an integral part thereof. To the extent possible, the Media Council shall take into account the experience earned in performing these tasks in exercising its regulatory powers, executing its regulatory procedures, performing market analysis, assessment and – in particular – drafting legislation.

### **Supervision over the Activities of the Self-regulatory Body Provided for in this Chapter**

**Article 201** (1) The Media Council shall exercise supervision over the activities of the self-regulatory body under the administrative contract. In so doing, the Media Council shall have the right to check fulfilment of the provisions of the administrative contract concluded with the Media Council on the part of the self-regulatory body on a continuous basis and their delivery in accordance with the contract. In the context of supervision, the Media Council shall have the right to familiarise itself with all the activities performed by the self-regulatory body in connection with the administrative contract, and to this end, may oblige the self-regulatory body to provide data.

(2) To the extent deemed necessary, the Media Council shall monitor the procedures and decisions of the self-regulatory body defined in Articles 197-200 to comprehensive inspection. In so doing, the Media Council shall assess the decisions of the self-regulatory body, in terms of their compliance with the provisions of the administrative contract and the Code of Conduct constituting an integral part thereof on an individual and aggregate basis.

(3) When, in the context of the supervision, the Media Council establishes that the self-regulatory body failed to act or acted improperly in cases subject to the authorisations granted under the administrative contract, in particular

- a) the self-regulatory body conducted the proceedings defined in Articles 197-200 in deviation from the provisions of the Code of Conduct;
- b) it assesses the applications in deviation from the provisions of the Code of Conduct;
- c) it passes its decisions with their content being in deviation from the provisions of the Code of

Conduct; or

d) it fails to check compliance with or observance of its decisions and/or fails to take measures to ensure that the provisions of its decisions are fulfilled;

then the Media Council shall request that the self-regulatory body acts in accordance with the provisions of the administrative contract, setting an appropriate deadline.

(4) When the self-regulatory body fails to fulfil the request defined under Paragraph (3) within the specified deadline, the Media Council shall have the right to terminate the administrative contract with immediate effect or with a period of notice defined in the contract.

(5) When, on the basis of the inspection, the Media Council establishes that the proceedings and decision of the self-regulatory body contradict relevant legislation or the provisions of the administrative contract or the Code of Conduct that constitutes an integral part thereof, the Media Council, concurrently with establishing the fact of infringement, shall institute a regulatory procedure in the subject covered by the procedure and the decision.

**Article 202** The self-regulatory body shall prepare a report to the Media Council on its activities and tasks performed under the administrative contract on a continuous basis, but at least annually, while on the course, content, subjects of its self-regulatory proceedings, types, content and observance of its decisions at least every six months, in writing. The Media Council shall assess the report under its decision.

**Article 202/A** The provisions stipulated in this Chapter, pertaining to co-regulation, shall neither affect nor restrict the right of media content providers to accept and apply self-regulatory initiatives, within the scope of their activities, by organising themselves, within the frameworks of this Act. The Media Council and the Authority shall support and respect these initiatives, in conformity with Article 8.

## ***PART FIVE INTERPRETATION***

**Article 203** 1. *Founder* shall mean the natural person, legal entity or organisation without legal personality that had determined the objective, purpose, nature and direction of the press product prior to publication of the first issue of the press product, and checks and controls these, and provides for the commencement of regular publication, and based on these, he has the right of disposition over the press product (notification of registration of the press product, notification or approval of deletion from the register, designation of the publisher); furthermore, the entity to which the founder's rights are transferred by the founder shall also be considered as a founder.

1a. *Audiovisual media service* shall mean media services offering programmes which contain moving images, still images with or without sound.

2. *Transmission system* shall mean the system of technical processes, electronic communications and other instruments ensuring the analogue or digital media service distribution of television or radio broadcast signals, which is connected to the transmission medium used for media service distribution, in particular the air and radio frequency, the vacuum, the coax cable, the stranded twin wire cable, the fibre optic cable.

3. *Qualifying holding* shall mean:

a) direct and indirect ownership in an undertaking, which – in aggregate – provides control in excess of twenty-five percent over the undertaking's assets or voting rights; the direct and indirect shareholding of close relatives shall be added together;

b) a situation which ensures significant influence over the undertaking on the basis of a contract, the articles of association (statutes) or the preferred stock, through the appointment (removal) of the members of the decision-making or the supervisory bodies, or in any other way.

4. *Surreptitious commercial communication* shall mean any commercial communication, the

publication of which deceives the audience about its nature. Communications serving the purposes of commercial communications may qualify as surreptitious commercial communications, even if no consideration is paid for their publication.

5. *Documentary* shall mean a non-fictional cinematographic work, the aim of which is to document reality. For example nature, scientific and educational films, historical documentaries, biographical and report films qualify as documentaries.

6. *Electronic communications service* shall mean services provided to another person, generally for consideration, which are entirely or predominantly composed of the transmission and – where applicable – the routing of signals through electronic communications networks; however it shall not include the services of providing content transmitted through the electronic communications networks and electronic communications services or the services of editorial control over such content; furthermore it shall not include services – defined in other laws – in connection with the information society, which not primarily consist of the transmission of signals through the electronic communications networks.

7. *Electronic communications service provider* shall mean the operator of an electronic communications network or a natural or legal person engaged in the provision of electronic communications services.

8. *Subscriber* shall mean a natural or legal person or other organisation who or which is in a contractual relationship - concerning the use of the below services - with the provider of publicly accessible media services or electronic communications services or with the publisher of press products.

9. *European work* shall mean:

(a) any Hungarian work;

(b) any work originating in a member state of the European Union;

(c) any work originating in a European state which is a party to the European Convention on Transfrontier Television, adopted in Strasbourg on 5 May 1989, promulgated by Act XLIX of 1998;

(d) any work produced under the co-production of the production companies of a member state of the European Union and a state outside the European Union, provided that the majority of the total co-production costs is provided by the co-producers from a EU member state, and the production is not controlled by one or more producers who are established in a country other than an EU member state; or

(e) any work produced in co-production, within the framework of an agreement concluded between the European Union and third countries concerning the audiovisual sector, and which complies with the conditions of the applicable agreements.

The works mentioned in Points (b)-(c) are works which were produced by authors and with the contribution of professionals having their addresses in one or more states defined under points (b)-(c), provided that the given work meets one of the following three conditions:

1. it is the work of one or more producers established in one or more of the above-mentioned states;

2. its production is supervised and actually controlled by one or more producers established in one or more of the above-mentioned states;

3. the contribution of co-producers from the above-mentioned states to the total co-production costs is preponderant and the co-production is not controlled by one or more producers established outside the above-mentioned states.

The works defined under Points (c) and (e) can qualify as European works if no discriminatory measures apply to the works originating from the members states in the given affected state outside the European Union.

10. *User* shall mean a natural or legal person or other organisation who or which uses or requests electronic communications services or media services.

11. *Cinematographic works* shall mean cinematographic works as defined in the Copyright Act,

excluding, amongst others, news and political programmes, programmes on current affairs and services, sports programmes or programmes broadcasting other events, game shows and quiz shows and commercial communications. Feature films, television films, television series, animation films and documentaries are in particular regarded as cinematographic works.

12. *Independent production company* shall mean a production company, in which neither the concerned media service provider nor the owner with a qualifying holding in such a media service provider has a direct or indirect shareholding; and neither any director, executive employee of the media service provider nor any of their close relatives is in a work-related relationship with or has an ownership share in such production company.

13. *Connecting to the network* shall mean the interconnection of two or more media service providers providing linear media services or of two or more linear media services, for the simultaneous or virtually simultaneous broadcasting of the same programme or programme flow.

14. *Networked media service provider* shall mean any media service provider providing linear media services, whose programme flow or programme is distributed in networked media services.

15. *Local media services* shall mean media services with a reception area covering the annual average population of maximum one hundred thousand people or maximum five hundred thousand people within a city.

16. *Professional disaster management agency* shall mean a law enforcement body participating in carrying out disaster management and executing administrative duties as well.

17. *News programme* shall mean a programme which devotes at least ninety percent of its duration to cover the current events of Hungarian and international public affairs, not including traffic, weather and sports news programmes.

18. *Information society service* shall mean the services defined as such in the relevant act on certain issues concerning the information society services.

19. *Game show* shall mean a programme in which members of the audience or participants in the game show shall answer questions or solve problems in accordance with certain rules, generally for the purpose of winning the prize put up by the media service provider or a third party. Talent search programmes and telephone or interactive games qualifying as teleshopping or teleshopping windows shall not qualify as game shows.

20. *Commercial communication* shall mean the media content aimed at promoting, directly or indirectly, the goods, services or image of a natural or legal person carrying out business activities. Such contents accompany or appear in media contents against payment or similar consideration or for the purpose of self-promotion. Forms of commercial communication shall include amongst others advertisements, the display of the name, the trademark, the image or the product of the sponsor, or teleshopping or product placement.

21. *Noninteractive teletext* shall mean any programme broadcasted in linear audiovisual media services that are used primarily to provide text-based information, and may also include still or moving images, sounds, or computer graphics.

21a. *Publisher* shall mean the natural person or legal entity that, for purpose of regularly publishing the press product, ensures the personnel and materials (means and equipment) required for publication under proper operational conditions, according to the agreement concluded with the founder if the founder and publisher of the press product are different persons or undertakings.

22. *Publication* shall mean:

a) any book in a printed or an electronic format, on a disk, cassette or any other physical medium; online and downloadable book;

b) any press product in a printed or an electronic format; online and downloadable periodical publication;

c) any other printed material (address registers, name registers, publications containing graphics, drawings or photos, maps; flyers; printed postcards, greeting or similar cards; printed pictures,

samples, photos; printed calendars; printed business advertisements, catalogues, brochures, poster ads and similar items; other textual publications) excluding printed stickers, postal-, excise duty-, duty-, etc. stamps; stamped papers, cheques, bank notes, share certificates, security papers, bonds, deeds and the like;

d) any products of film-, video-, and television programme production (films intended for public showing on celluloid, video cassette, video disc, other physical medium; downloadable films, videos);

e) any sound recordings (intended for public showing, recorded tapes, discs, downloadable sound content);

f) any musical works (printed musical works, musical works in electronic format, downloadable musical works)

23. *Ancillary media services* shall mean all services – also containing content provision – which are transmitted through a media service distribution system and which qualify neither as media services nor as electronic communications services. For example, electronic programme guides are ancillary media services.

24. *Small community media services* shall mean – in the case of stereo reception – the local linear radio community media services operating in a reception area covering a geographical area corresponding to a circle with a maximum radius of one kilometre from the transmitting station.

25. *Regional media services* shall mean media services, whereof reception area exceeds that of the local media services, however less than half of the country's population resides within the reception area of such services.

26. *Close relative* shall mean spouses, registered partners, dependent relatives, adopted-, step- and foster children, adoptive-, step- and foster parents and siblings.

27. *Public service announcement* shall mean any announcement released without consideration, originating from an organization or a natural person fulfilling state or local governmental responsibilities or from a State financed or State managed institution, which provides specific information of public interest for the purpose of attracting the attention of the viewers or the audience, and does not qualify as political advertisement.

28. *Audience share* shall mean the ratio expressed in percentage points of the total time of viewing the programmes of the concerned linear audiovisual media services or listening to the programmes of the concerned linear radio media services to the total time of viewing all the linear audiovisual media services or listening to all the linear radio media services in the examined period. In the course of determining the audience share, the market of linear audiovisual media services and linear radio media services shall be examined separately within the territory of Hungary.

29. *Indirect ownership* shall mean the ownership share or the voting rights held by the owners of another undertaking (hereinafter as: intermediate undertaking), which has shareholding or voting rights in the undertaking. If there is any proportional difference between the ownership share and the voting rights, the greater one shall be taken into account. The ratio of indirect ownership shall be determined by multiplying the ownership share or voting rights held in the intermediate undertaking by the ownership share or voting rights held by the intermediate undertaking in the original undertaking. If the undertaking has majority ownership in the intermediate undertaking, it shall be considered as a whole. In the case of natural persons, the ownership shares and voting rights held or exercised by close relatives shall be added together.

30. *Intermediary service provider* shall mean the service provider providing information society services, which

a) is engaged in the transmission of the information supplied by the recipient of services through telecommunications network or in providing access to such telecommunications network (simple data transfer and network access);

b) is engaged in the transmission of the information supplied by the recipient of services through



telecommunications network, and essentially serves the improvement of efficiency concerning the transmission of information initiated by other recipients of services (caching);

c) is engaged in the storage of the information supplied by the recipient of services (hosting);

d) is engaged in providing the recipient of services with tools to facilitate the finding of information (discovery services).

31. *Public media service* shall mean audiovisual or radio media services, news agency services or media contents made available via the Internet, provided by the public media service provider.

32. *Public media service provider* shall mean only and exclusively the media service provider described – with the purpose of achieving the objectives of public media services – in Article 84 (1) of this Act.

33. *Public service media assets* shall mean cinematographic and other audiovisual works, radio programmes, sound recordings and other documents ancillary to media services representing cultural values, copyrights and certain related rights of photographs or any other licenses of the aforementioned, and the physical media containing the aforementioned works (e.g. discs, tapes, cassettes, paper based documents, music scores) ordered by the public media service provider, its predecessors or the Fund, produced on any legal grounds, procured by way of a sale and purchase transaction, obtained or created in whole or in part by way of a licensing or any other agreement; furthermore costumes, props, film sets and other copyright materials, provided that the copyrights and certain related rights are owned or used to be owned by any of the predecessors of the public media service provider prior to the Act entering into force or by the Fund subsequent to the Act entering into force; and also those, over which any of the predecessors of the public media service provider obtained rights or over which the public media service provider itself obtains rights subsequent to this Act entering into force.

34. *Publication* shall mean posting on the bulletin board of the Authority or publishing on the website of the Authority. The effective date of the publication shall be the day of posting on the bulletin board.

35. *On-demand media service* shall mean the media services where, on the basis of a catalogue of programmes compiled by the media service provider, the user may, at his/her own request, watch or listen to the programmes at any time of his/her own choice.

36. *Linear media services* shall mean the media services provided by a media service provider that allow for the simultaneous watching or listening to programmes on the basis of a programme schedule.

37. *Hungarian works* shall mean:

(a) works originally made in the Hungarian language in their entirety;

(b) works originally made in several languages, but when considering their overall length, their parts originally made in Hungarian are longer than any of their other parts made in any other language;

(c) works originally made in the languages of any of the nationalities recognised by Hungary, provided their subject matter concerns the life or culture of the given nationality in Hungary;

(d) a music programme performed in Hungarian or performed in the language of any of the nationalities recognised by Hungary, provided its subject matter concerns the culture of the given nationality related to Hungary;

(e) an instrumental music programme, which forms part of Hungarian culture or the Hungary-related culture of any of the nationalities recognised by Hungary.

f) [not in effect]

38. *Hungarian musical work* shall mean a textual or instrumental musical work, which qualifies as a Hungarian work.

39. *Rules on media administration* shall mean this Act and Act CIV of 2010 on the Freedom of the Press and the Fundamental Rules of Media Content, and any legislation issued in respect of the

implementation of the aforementioned acts; any directly applicable legal instruments of the European Union concerning media administration; any broadcasting agreement, any public contract entered into by and between the Media Council and the Office, and the regulatory decision issued by the Media Council and the Office.

40. *Media service* shall mean any independent service of a commercial nature, as defined in Articles 56 and 57 of the Treaty on the Functioning of the European Union, provided on a regular basis, for profit, by taking economic risks, for which the media service provider bears editorial responsibility, the primary aim of which is the delivery of programmes to the general public for informational, entertainment or educational purposes through an electronic communications network.

41. *Media service provider* shall mean the natural or legal person who or which has editorial responsibility over the composition of the media services and determines their contents. Editorial responsibility shall mean the responsibility for the actual control over the selection and composition of the media content and shall not necessarily result in legal responsibility in connection with the media service.

42. *Media content* shall mean any content offered in the course of media services and in press products.

43. *Media content provider* shall mean the media service provider or the provider of any media content.

44. *Programme flow* shall mean a series of radio or audiovisual programmes edited and publicly, continuously transmitted.

45. *Preview* shall mean any programme, which introduces, describes or promotes a programme or programmes the media service provider intends to transmit at a later time.

46. *Transmission time* shall mean the total time of the programmes continuously transmitted in the course of the media service during a specific period of time.

47. *Programme* shall mean the series of sounds or moving images or still images with or without sound, which form a separate unit in the programme schedule or the catalogue of programmes selected by the media service provider and the form and content of which is similar to that of radio or television media services.

48. *Programme related products* shall mean a product or service directly connected to the content of a programme and distributed by the media service provider, which enables the fuller enjoyment of the programme, for example by promoting the interactivity of the viewers or the listeners.

49. *Broadcasting transmission* shall mean the media service distribution in the course of which analogue or digital radio or audiovisual media services are transmitted to the subscriber or user, by means of a terrestrial transmission system that uses radio frequencies – other than frequencies allocated primarily for satellite services – and usually enabling one-way data transmission. Broadcasting transmission shall also include media service distribution implemented by using a digital broadcasting network or broadcasting station.

50. *Media service distribution* shall mean an electronic communications service implemented by using any type of transmission system, in the course of which the analogue or digital broadcasting signals generated by the media service provider are transmitted from the media service provider to the receiver of the subscriber or user, irrespective of the applied transmission system or technology. In particular, media service distribution includes broadcasting transmission, satellite media service distribution, media service distribution via a hybrid optical-coaxial transmission system, furthermore the transmission of media services using the Internet Protocol through certain transmission system, if the nature and circumstances of the service are identical to those of media service distribution or if it replaces media service distribution implemented in any other manner. Media service distribution shall also mean such media service distribution to which the subscriber receives access for a special fee or for a fee paid for a package that also contains the fee of some other electronic communications service. Signal transmission through a transmission system suitable for the connection of less than ten

receivers shall not qualify as media service distribution.

51. *Media service distributor* shall mean the provider of media service distribution, including the operator of a digital broadcasting network, if it provides the media service distribution itself. If the transmission network is not operated by the media service distributor, the service provider defining the conditions of the services provided to the subscriber or user and/or concluding the contract with the subscriber shall qualify as media service distributor.

51a. *Media service distribution transmission platform* shall mean the transmission system, typically analogue or digital, ensuring the transmission of signals of the same technology.

52. *National media service* shall mean the media services, in the reception area of which at least fifty percent of the population of Hungary resides.

53. *Split screen advertisement* shall mean an advertisement covering a particular portion of the screen displayed during a programme, not qualifying as a commercial communication in the course of audiovisual media service.

54. *Composite programme* shall mean a combination of several programmes bearing a single main title or other distinctive attribute.

55. *Political advertisement* shall mean any programme promoting or advocating support for a party, political movement, or the Government, or promoting the name, objectives, activities, slogan, or emblem of such entities, which appears and is transmitted in a manner similar to that of advertisements.

56. *Political programme* shall mean a programme, which devotes at least ninety percent of its duration to the analysis, coverage and evaluation of Hungarian or international political or current public affairs and to the exploration of the background of such affairs or events, which does not qualify as a news programme.

57. *Programme package* shall mean media services offered or provided by the media service distributor to the subscriber in one group.

58. *Radio media services* shall mean media services featuring programmes composed of the sequence of sounds.

59. *Advertisement* shall mean any communication, information or representation, qualifying as a programme, intended to promote the sale or other use of marketable tangible assets – including money, securities, financial instruments and natural resources that can be utilized as tangible assets – services, real estates or pecuniary rights or to increase, in connection with the above purposes, the public awareness of the name, designation or activities of an undertaking, or any merchandise or brand name.

60. *Press products* shall mean individual issues of daily newspapers or other periodical papers, online newspapers or news portals, which are offered as a business service, for the content of which a natural or legal person has editorial responsibility, and the primary purpose of which is to deliver textual or image content to the general public for information, entertainment or educational purposes, in a printed format or through any electronic communications network. Editorial responsibility shall mean the responsibility for the actual control over the selection and composition of the media content and shall not necessarily result in legal responsibility in connection with the press product. Business service shall mean any independent service of a commercial nature provided on a regular basis, for profit, by taking economic risks.

61. *Sports programme* shall mean a programme broadcasting a sports event (simultaneously with the event, in a delayed or an edited format), excluding news reports on sports events and programmes containing discussions of sports related topics.

62. *Member State* shall mean a member state of the European Economic Area.

63. *Sponsorship* shall mean any contribution provided by an undertaking to finance a media service provider or a programme with the purpose of promoting its name, trade mark, image, activities or products.

64. *Public service advertisement* shall mean any communication or message with a public purpose, which does not qualify as a political advertisement, is not for profit and does not serve advertising purposes, is transmitted for or without consideration, and which aims to influence the viewer or the listener of the media service in order to achieve a goal of public interest.

65. *Teleshopping* shall mean an advertisement, which contains direct offers for the sale, purchase or other utilisation of goods, services, rights and obligations for payment or consideration, by way of establishing contact with the distributor or the service provider, including phone-ins operated as business undertakings transmitted in the media service.

66. *Teleshopping window* shall mean a teleshopping facility, the uninterrupted duration of which is at least fifteen minutes.

67. *Thematic media service* shall mean any media service, which broadcasts programmes of a similar theme in eighty percent of the daily transmission time in case of a linear media services and in eighty percent of the total time of all the programmes broadcasted in case of on-demand media services; such as the news or political programmes, programmes for minors, sports programmes, music programmes, educational programmes or programmes introducing a certain lifestyle.

68. *Product placement* shall mean any form of commercial communication, which contains products, services, the trademark of the above or any reference to them and appearing in a programme for payment or similar consideration.

69. *Election campaign period* shall mean the time period as defined in the Act on Electoral Procedures designated for pursuing the electoral campaign.

70. *Undertaking* shall mean natural persons, private entrepreneurs, business associations, other legal persons.

71. *Reception area*:

a) in case of media services provided through broadcasting transmission and media service distribution via satellites, accessible without the payment of a subscription fee, the number of the population residing in a geographically identifiable territory in which the level of the effective signals of the broadcasting transmission service transmitting the programme flow and the calculated level of interference protection reach the minimum values stipulated in the recommendations of the International Telecommunication Union;

b) in case of media services provided through other transmission systems for media service distribution accessible without the payment of a subscription fee, the product of the number of households connected to the transmission system and the average number of persons living in a single household as defined by the Hungarian Central Statistical Office; or

c) in case of media services accessible in return for a subscription fee, the product of the number of households subscribed to such media service or to the media service distribution containing such media service and the average number of persons living in a single household as defined by the Hungarian Central Statistical Office.

72. *Virtual advertisement* shall mean an advertisement inserted, digitally or by any other method, subsequently into the programme signal or the programme.

## **PART SIX CLOSING PROVISIONS**

### Chapter I ENTRY INTO FORCE

**Article 204** (1) This Act – with the exception defined under Paragraph (2) – shall enter into force on 1 January 2011.

(2) Articles 222 and 228 (3) of this Act shall enter into force on 2 January 2011. Article 229 shall

enter into force on the day when the provision of the Constitution granting regulatory rights to the President of the National Media and Infocommunications Authority enters into force. Article 223 (6)-(8) of this Act and Annex no. 5 to this Act shall enter into force on 2 January 2011.

(3) Articles 220-228 of this Act shall be repealed on 3 January 2011.

## Chapter II SHORT TITLE OF THE ACT

**Article 205** This Act shall be referred to as the “Media Act” in other legislation.

## Chapter III AUTHORIZATIONS

**Article 206** (1) The President of the National Media and Infocommunications Authority shall be authorised to establish by decree

a) the frequency fees, the fees payable for the reservation and use of identifiers, as well as the supervisory fee for communications and postal service providers, the method and conditions of payment of these amounts, the rules of the related supervisions,

b) the administrative service fee of the regulatory procedure related to the rating of programmes and classification of communications,

c) the method and terms of the payment of the fees of the procedures conducted by the Authority and the Media Council as well as the amount and the rules of calculating such fees.

(2) Until the decrees defined under Paragraph (1) are not adopted by the President of the National Media and Infocommunications Authority, the ministerial decrees governing the relevant issues shall remain in force.

(3) The Government shall be authorised to regulate and define in a decree the suppliers of legal deposits, exemptions from the number of copies provided for by law, the method and deadline for providing legal deposits, the rules of implementation, the list of organisations entitled to receive legal deposits, the method of distribution, the rules of the storage and the use of legal deposits, as well as the procedural rules to be followed in case of failure to provide legal deposits.

(3a) The Government is hereby authorized to determine in a decree the rules of payment of the programme fee, payable for that linear audiovisual media service of the linear audiovisual media service provider having significant market power, which has the highest average annual audience share.

(4) The Minister responsible for culture shall be authorised to regulate by decree the detailed rules of providing the imprints of publications.

(5) The Minister responsible for audiovisual policy shall be authorised to establish by decree the detailed rules governing the administrative service fee payable for the proceedings as special authority defined in Article 171, as well as the management, registration and reimbursement of such fees.

(6) The Minister responsible for employment is hereby authorized to determine in a decree the posts of employment as per Article 108/B (1).

## Chapter IV TRANSITIONAL PROVISIONS

**Article 206/A** Point (b) of Paragraph (1) of Article 42 and Paragraph (2a) of Article 42 of this Act,



determined by Act LXXXV of 2012 on Simplification of certain family law and company law procedures, shall be applied regarding the applications submitted on or after 1 February 2013.

### **Transitional Arrangements for the Broadcasting Agreements**

**Article 207** (1) The analogue terrestrial broadcasting right defined in Act I of 1996 on Radio and Television Broadcasting (hereinafter as: Radio and Television Broadcasting Act) and the analogue linear media service provision right using state-owned limited resources as defined in this Act can only be exercised on the basis of the public contract concluded with the Media Council, with the exception of the media services of the public media service provider as per Paragraph 32 of Article 203.

(2)-(5) *[not in effect]*

(6) The linear audiovisual media service provider having significant market power is not entitled to request a programme fee for its linear audiovisual media service having the highest average annual audience share until the entry into force of the legislation issued on the basis of Article 206 (3a).

(6a) The provision stipulated in Paragraph (6) shall also apply to that linear audiovisual media service having the highest average annual audience share of the linear audiovisual media service provider having significant market power which qualifies, at the time of entry into force of Act XXXIX of 2014 on the Amendment of certain acts related to budgetary planning and the more effective provision of money market and public utility services, as the linear audiovisual media service with highest average annual audience share of the linear audiovisual media service provider having significant market power, based on the Media Council's regulatory decision or public contract.

(7) The broadcasting agreement may not be terminated if such agreement could not have been concluded due to a breach of law, however the media service provider is not solely responsible for such breach of law.

(8) *[not in effect]*

(9) Violations concerning subjects described in the broadcasting agreement and falling under the scope of the Press Freedom Act or of Chapter I of Part II of this Act shall be considered under the Press Freedom Act or the relevant provisions of this Act, instead of the provisions set forth in the broadcasting agreement.

### **Transitional Arrangements for the Requirement of Notification**

**Article 208** (1) Media services listed in the register kept by the National Media and Infocommunications Authority pursuant to the Radio and Television Broadcasting Act at the time of the entry into force of this Act shall provide the data specified in the rules on the notification procedure set out in this Act and not listed in the register, within thirty days, without the initiation of a new notification procedure.

(2) Press products that are listed in the register kept by the National Office of Cultural Heritage (hereinafter as: National Office of Cultural Heritage) pursuant to Act II of 1986 on the Press (hereinafter as: Press Act) at the time of the entry into force of this Act, shall provide the data specified in the rules on the notification procedure set out in this Act and not listed in the register, within thirty days, without the initiation of a new notification procedure.

(3) Until 1 January 2012, the National Office of Cultural Heritage shall be responsible for the regulatory tasks related to the registration of printed press products and the management of newspaper registration. As of 1 January 2012, the Authority shall perform the duties related to the registration of printed press products on the basis of this Act.

(4) Media services, online press products already operating at the time of the entry into force of this

Act, however not registered by the Authority or the National Office of Cultural Heritage, shall be notified to the Authority by 30 June 2011 at the latest, while printed press products shall be notified to the National Office of Cultural Heritage by 30 June 2011 at the latest.

(5) If the publisher of printed press products registered in the register kept by the National Office of Cultural Heritage at the time of entry into force of this Act, however not published during the three years preceding the entry into force of this Act, fails to re-launch regular publication of the press product by 31 December 2012, then the press product shall be deleted from the register. In other cases, the period specified in Article 46 (6) (c) subject to the deletion obligation, shall commence on the day of the entry into force of this Act.

**Articles 209-210** *[not in effect]*

### **Transitional Arrangements for the Members and Office Holders in the Bodies Defined by this Act**

**Article 211** (1) The entry into force of this Act shall not affect the mandate and the term of office of Presidents, Vice-Presidents, Deputy Presidents, Directors General, Deputy Directors General, CEOs, Deputy CEOs and members of the organisations and bodies specified in this Act.

(2) Delegation to the Board of Public Services and the drawing of lots — set forth in Annex no. 1 — preceding such delegation shall be carried out by 31 March 2011.

(3) If the President, the members of the new joint Supervisory Board, and the joint auditor of the public media service provider are not elected by the date of the entry into force of this Act, the term of office of the members, presidents of the previous supervisory boards and the auditors shall end when the new Supervisory Board and the auditor are elected.

(4) Article 111/A (3) and Article 125 (5) of the Media Act, being established by Act XXXIII of 2013 on the Amendment of Act CIV of 2010 on the Freedom of the Press and the Fundamental Rules of Media Content and Act CLXXXV of 2010 on Media Services and Mass Media (hereinafter as: Amending Act), shall also be applied with respect to the President and the president of the Media Council being in office at the time of entry into force of the Amending Act. Entry into force of the Amending Act shall not affect the existence of the mandate of the President and the president and members of the Media Council being in office at the time of entry into force.

### **Transitional Arrangements for the Public Media Service Provider**

**Article 212** (1) The drafters of the Public Service Broadcasting Regulation drafted pursuant to the Radio and Television Broadcasting Act shall harmonise the Regulation with the Public Service Code or, in the absence thereof, shall repeal it.

(1a) The provisions of the Code must be amended until 30 September 2015 in conformity with the provisions of Act CVII of 2014 on the amendment of certain laws regulating public media service and the media market. The rules regulating the adoption of the Code, as defined under Article 95 (2), shall be applied in respect of this amendment.

(2) Regarding the term of employment of the persons having worked as public service employees at the Hungarian Radio, the Hungarian Television and the Hungarian News Agency prior to the establishment of Hungarian Radio Pte. Ltd., Hungarian Television Pte. Ltd., and Hungarian News Agency Pte. Ltd. and their employment having been uninterrupted at the same public media service provider ever since, the period spent as public service employees at the Hungarian Television, the Hungarian Radio and the Hungarian News Agency shall be considered as periods worked at the private companies limited by shares.

(3) Notwithstanding Paragraph (2), in respect of the notice period and severance allowance, the term of employment at Hungarian Radio Ltd., Hungarian Television Ltd. and Hungarian News

Agency Ltd. shall be calculated from the date of the public service employment having been transformed into an employment relationship. The notice period and severance allowance based on the term of the previous public service employment in compliance with the relevant rules defined in the Act on the Legal Status of Public Service Employees effective at the time of the transformation of the status shall be added to the extent of the notice period and severance allowance.

(4) Regarding claims arising from the public service employment and arising prior to the transformation of the legal status specified under Paragraph (2), the provisions of the Act on the Legal Status of Public Service Employees in effect at the time the claim arose shall apply, and the provisions of Act XXII of 1992 on the Labour Code shall apply to the procedure of enforcing such claims.

**Article 213** (1) In 2011, the Board of Trustees of the Public Service Foundation, the Fund and the public media service provider shall receive the sponsorships defined in the State Budget Act for 2011. The methods and amount of public service financing set out in this Act (public service contribution) shall be first applied for the year 2012. In 2011, the operational fee defined in the Radio and Television Broadcasting Act shall also form part of the Fund's financial resources.

(2) Regarding the reduction of share capital of the company limited by shares required in relation to the assets transferred pursuant to the Parliamentary Decision no. 109/2010 (X. 28.), the rules set out in Articles 271-272 of Act IV of 2006 on Business Associations may not be applied.

(3) The transfer of assets specified under Paragraph (2) shall be exempted from charges. The historical cost of the assets transferred free of charge to the Fund pursuant to Act C of 2000 on Accounting shall be equivalent to the book value of the assets recorded by the public media service provider at the time of transfer of such assets.

(4) The public media service providers may transfer their rights and obligations arising from their contractual relations established prior to the entry into force of this provision to the Fund as a whole and on the same terms and subject to the same conditions. The change of the subject due to the transfer shall not affect the original rights and obligations of the contracting parties. Accordingly, in respect of the changes of the subject of contractual relations, the provisions defined in the Public Procurement Act pertaining to contract amendments shall not be applicable. The rights granted to and the obligations undertaken by the public media service provider as contracting authority in public procurement procedures initiated prior to the entry into force of this Act and still ongoing, are transferred to the Fund by the relevant declaration of the public media service provider aiming such transfer.

(5) In the course of the transfer of assets conducted pursuant to the Parliamentary Decision no. 109/2010 (X.28.), additional claims – to be borne by the public media service providers – which have not been barred by limitation and arising from agreements already performed and from obligations already fulfilled, shall continue to be borne by the public media service provider. Such claims shall not be enforceable vis-à-vis the Fund.

(6) The state taxation authority may, on the basis of the application of the Fund and the public media service provider based on Paragraph (3) of Article 8 of Act CXXVII of 2007 on Value Added Tax, approve the group taxpayer status as of the date mutually specified by the Fund and the public media service providers.

(7) Paragraph 6 of this Article and Article 108 (11) shall be applicable as of 1 January 2011.

**Article 214** (1) In order to enforce the provisions of this Act, media service distributors and the public media service providers may initiate with the other contracting party the review and amendment of media service distribution agreements concluded before 31 December 2010. None of the parties may refuse to negotiate the amendment of such agreements.

(2) If the parties cannot reach an agreement within three months from the communication of the other party's offer regarding the review and amendment of the agreement, any of the parties may initiate a legal dispute procedure before the National Media and Infocommunications Authority

pursuant to the rules of the Electronic Communications Act.

**Article 215** In order to preserve artistic standards, the Fund shall be responsible for the maintenance and development of the artistic groups of Magyar Rádió Nonprofit Zrt. following the entry into force of this Act. The Minister responsible for culture and the Fund may conclude an agreement on changing the person responsible for maintaining the artistic groups.

**Article 215/A** (1) The Hungarian Radio Non-Profit Private Limited Company, the Hungarian Television Non-Profit Private Limited Company and the National News Agency Non-Profit Private Limited Company, as public media service providers owned by the Public Service Foundation, shall be terminated as a result of the merger with Duna Television Non-Profit Private Limited Company. Deviating from Article 91 (b) of the Media Act, the Public Foundation shall be entitled and obliged to adopt the owner's decisions required for implementation of the merger until 31 March 2015 the latest. In connection with the merger, the Parliament shall be obliged to amend the Statutes of the Public Service Foundation. Subsequent to the merger, the name of Duna Television Non-Profit Private Limited Company shall be changed to Duna Media Service Provider Non-Profit Private Limited Company.

(2) The Public Service Foundation shall adopt its decision on the merger at one of its meetings. The further measures required for the registration of the merger in the company register shall be taken by Duna Television Non-Profit Private Limited Company, in cooperation with the Public Service Foundation, the Fund and the other companies affected by the merger, in order to ensure that the date of the merger shall be 1 July 2015.

(3) The provisions of Act V of 2013 on the Civil Code (hereinafter referred to as: the Civil Code), Act CLXXVI of 2013 on the transformation, merger and demerger of certain legal entities (hereinafter referred to as: the Transformation Act) and Act V of 2006 on Public Company Information, Company Registration and Voluntary Liquidation Proceedings (hereinafter referred to as: the Public Company Information Act) shall be applied in terms of the merger of the public media service provider companies limited by shares, subject to the following deviations:

a) the rules stipulated under Articles 9, 10 (2)-(4) and 14 (5) of the Transformation Act, Article 3:40 of the Civil Code and Paragraphs (1a) and (5) of Article 57 and Section III.5 of Annex no. 1 of the Public Company Information Act shall not be applied;

b) Paragraph (4) of Article 3:36 of the Civil Code shall be applied in such a way so that there shall be no suspension of execution of the order;

c) Paragraph (1) of Article 57 of the Public Company Information Act shall be applied with the provision that the time limit for assessment of the application shall be ten working days.

**Article 215/B** (1) Pursuant to this Act, the assets of the public media service provider, with the exception of the assets connected to a functional task, shall be transferred to the ownership of the State and the ownership rights over these assets shall be exercised by the Fund, without consideration. Duna Media Service Provider Private Limited Company, created as of the merger, and the Fund shall enter into a handover agreement regarding the transfer of ownership and the execution of the related further tasks, wherein they shall agree on the transfer of the rights and obligations resulting from the legal relationships connected to the transferred assets as well. The change of the subject arising due to the transfer shall not affect the original rights and obligations of the contracting parties. Accordingly, in respect of the change of the subject of contractual relations, the provisions defined in the Public Procurement Act pertaining to contract amendments shall not be applicable. The rights granted to and the obligations undertaken by the public media service provider and its predecessors, as contracting authority, in public procurement procedures initiated prior to the entry into force of this Act and still ongoing, shall be transferred to the Fund by the respective declaration of the public media service provider.

(2) For the purposes of Paragraph (1), the following assets shall qualify as assets connected to a functional task: the assets serving the corporate operations performed by the organizational units

created as a result of the internal division of tasks of the public media service provider, i.e. the institution operational and internal management tasks, hence in particular the means and equipment and technical conditions serving the human resource management, budgetary management, financial, legal, communications control and coordination tasks, furthermore the IT tasks serving the organisational operations of the public media service provider. The Public Foundation shall be entitled and obliged to determine the exact scope of these assets, based on the proposal of the public media service provider.

(3) Pursuant to this Act, the ownership title of the concerned asset shall be transferred to the Hungarian State as of the day when the respective agreement is executed. The transfer of the assets shall be exempt from duties. The historical cost of the assets transferred free of charge to the State pursuant to Act C of 2000 on Accounting shall be equivalent to the book value of the assets recorded by the public media service provider at the time of transfer of such assets.

(4) The Fund shall be liable, as a surety, for the claims arising prior to entry into force of Act CVII of 2014 on the amendment of certain laws regulating public media service and the media market, under a liquidation proceeding started within 3 years following the entry into force of the Act, up to the value of the assets taken over.

**Article 215/C** The employment contracts of the concerned employees of the public media service provider and the Fund shall have to be amended to ensure their compliance with the requirements set forth under Article 108/B. The negotiations on the amendments have to be closed until 31 March 2015. In the event the parties are unable to agree concerning the amendment of the employment contracts until the above date, the provisions of Article 108/B shall be applied respectively regarding the employment contracts from 1 April 2015.

### **Transitional Arrangements for the Authority and its Procedure**

**Article 216** (1) Following the entry into force of this Act, the provisions specified in this Act — subject to the exception provided for in Paragraphs (2)-(5) — shall be applicable in the ongoing procedures before the Media Council or the Office and falling within the scope of this Act.

(2) In tender procedures started before the entry into force of this Act, the Media Council and the Fund shall proceed in line with the rules of procedure effective at the time of the execution of the procedural action, as follows:

a) in tender procedures where the Media Council selected the winner of the tender prior to the entry into force of this Act, the Media Council and the Fund shall conclude a public contract with the winning tenderer following the entry into force of this Act, proceeding in line with the provisions of this Act;

b) in ongoing tender procedures where tenderers have already submitted their tenders, but the Media Council has not yet announced the winner or has not declared the tender procedure as unsuccessful, the Media Council shall, following the entry into force of this Act, proceed in line with the provisions of Act I of 1996 on Radio and Television Broadcasting pertaining to the general conditions of tendering and the invitation to tender, the examination, evaluation and assessment of tenders, with the proviso that its decisions are made in a regulatory procedure in accordance with the rules of procedure defined in this Act and that it concludes a public contract with the winning tenderer. These ongoing tender procedures shall, following the entry into force of this Act and pursuant thereto, qualify as official matters and legal relations of regulatory procedure;

c) in tender procedures for the usage of analogue linear radio media service provision rights started prior to 6 September 2010, the Media Council may review and amend the draft invitation to tender and the wording of the invitation to tender accepted by the legal predecessor Board. If the Media Council decides to amend the draft invitation to tender or the invitation to tender, the Media Council shall publish the consolidated version of the text and hold a hearing as per Article 50. If the draft



invitation to tender or the invitation to tender in the tender procedure has already been published, the Media Council shall notify the public on the reasons for the repeated publication and hearing in a notice posted on its bulletin board as per Article 50 (3) and on its website.

(3) In case of breach of law committed prior to the entry into force of this Act, the provisions of substantive law shall apply, which were in force at the time the breach was committed.

(4) The regulatory procedure specified in this Act may only be initiated after 1 July 2011, for breach of law committed after this date, against the media service provider of on-demand media services or publisher of press products in the event of violations of Articles 14 and 16-20 of the Press Freedom Act, and against the media service provider of on-demand media services in the event of violations of the provisions specified in Chapter I of Part Two of this Act. Media service providers and media service distributors shall comply with the obligations defined in Article 9 (3), Article 10 (1) (a), Article 72 (3) and Article 74 (3) of this Act following 1 April 2011. Regulatory procedures for violation of the above obligations may only be initiated against them for breach of law committed after this date.

(5) The stipulations set out in Article 171 shall also be applicable to ongoing procedures, with the proviso that no subsequent special authority fee will be charged.

(6) In 2011, the financial management by the Authority and the Media Council shall be performed from the funds defined in Act CXLVI of 2010 on the 2011 Budget of the National Media and Infocommunications Authority and the Media Council of the National Media and Infocommunications Authority, in accordance with the provisions laid down in Article 134. The remaining uncommitted funds in the budgets of the National Media and Infocommunications Authority and the Media Council, as well as the legal predecessors thereof, accumulated in the course of 2009 and 2010 — including the uncommitted surplus accumulated in the Media Council's budget and the amount held by the National Communications Authority and blocked in 2010 pursuant to the Government's decision — shall be used to generate reserves for funding the public duties related to the implementation of the digital switchover, as well as the Fund's public service- and community media service-related activity. The committed remaining funds reserved until 31 December 2010 shall be used by the Authority in line with the legal statement forming the basis of the commitment.

(7) For the purposes of the Act on the 2011 Budget of the Republic of Hungary, Act CXLVI of 2010 on the Budget of the National Media and Infocommunications Authority and the Media Council of the National Media and Infocommunications Authority, and the contractual obligations, the Broadcasting Support and Asset Management Fund referred to in these acts and in the contracts shall refer to the Media Service Support and Asset Management Fund.

(8) In the case specified in Article 129 (1) (a), the date of termination of the mandate of the President and members of the Media Council shall be the commencement date of the mandate of the recently elected President and members. In the case specified in Article 113 (1) (a), the date of termination of the mandate of the President of the Authority shall be the commencement date of the mandate of the recently appointed President. If the new President of the Authority is not elected as President of the Media Council by the Parliament within 30 days from his/her appointment, or, if such an appointment takes place outside the parliamentary session, within 15 days from the starting date of the forthcoming parliamentary session; the mandate of the former President of the Media Council shall continue until the election of the new President of the Media Council. If the Authority does not have an elected President, the powers and responsibilities of the President shall be performed by the President of the Media Council, or by the member of the Media Council in the case specified under Paragraph (2) of Article 131.

**Article 217** The provisions of this Act determined by Act LXVI of 2012 on amendment of certain acts related to media services and press products shall be applied to ongoing procedures as well, provided that the provisions of substantive law in force at the time the given offence was committed shall be applied regarding the offences committed prior to the entry into force of the above-mentioned

provisions.

**Article 218** The management, maintenance and operation of the National Audiovisual Archive (hereinafter as: National Audiovisual Archive) shall be carried out by the Authority from 31 March 2011. The transfer of National Audiovisual Archive to the Authority shall be carried out by this date, including the transfer of the prorated part of the budgetary support granted for operation.

**Article 218/A** The provisions of this Act determined by Act CXXI of 2013 on the Amendments of certain infocommunications related acts required to ensure the digital switchover of local and regional television channels shall be applied to ongoing procedures as well, provided that the provisions of substantive law in force at the time the given offence was committed shall be applied regarding the offences committed prior to the entry into force of the above mentioned provisions.

**Article 218/B** The provisions of this Act determined by Act XXXIX of 2014 on the Amendment of certain acts related to budgetary planning and the more effective provision of money market and public utility services shall be applied to ongoing procedures as well, provided that the provisions of substantive law in force at the time the given offence was committed shall be applied regarding the offences committed prior to the entry into force of the above-mentioned provisions. Prior to entry into force of the provisions of this Act determined by Act XXXIX of 2014 on the Amendment of certain acts related to budgetary planning and the more effective provision of money market and public utility services, the Media Council shall send, in the ongoing proceedings started pursuant to Article 16 (2) of the Media Act, the draft list specified in Article 16 (2) to the European Commission, for approval, with the provision that the proceeding, following the entry into force of this Act, shall not qualify as a regulatory procedure as per the Act on Administrative Proceedings.

## Chapters V-VI

*Articles 219-228* [not in effect]

### Chapter VI/A

#### COMPLIANCE WITH THE REQUIREMENT OF THE FUNDAMENTAL LAW PERTAINING TO ORGANIC LAW PROVISIONS

**Article 229** Articles 1-203, 206-218/B and Annexes 1 and 4 of this Act shall qualify as organic law provisions pursuant to Paragraph (6) of Article IX and Article 23 of the Fundamental Law of Hungary.

### Chapter VII

#### COMPLIANCE WITH EUROPEAN UNION LAW

**Article 230** (1) This Act serves the purpose of compliance with the following legal instruments of the European Union:

a) Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (codified version) (Audiovisual Media Services Directive);

b) Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on Electronic Commerce);

c) Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive);

d) Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009 amending Directives 2002/21/EC on a common regulatory framework for electronic communications networks and services, 2002/19/EC on access to, and interconnection of, electronic communications networks and associated facilities, and 2002/20/EC on the authorisation of electronic communications networks and services;

e) Directive 98/27/EC of the European Parliament and of the Council of 19 May 1998 on injunctions for the protection of consumers' interests, Articles 2 (1) and 4 (1).

(2) This Act establishes the provisions within the scope of tasks and procedures of the National Media and Infocommunications Authority required to the implementation of the following legal instruments of the European Union:

a) Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws;

b) Commission Decision 2007/76/EC of 22 December 2006 implementing Regulation (EC) No 2006/2004 of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws as regards mutual assistance;

c) Commission Decision 2008/282/EC of 17 March 2008 amending Decision 2007/76/EC implementing Regulation (EC) No 2006/2004 of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws as regards mutual assistance.

#### Annex no. 1 to Act CLXXXV of 2010

The Nominating Organisations listed below may delegate members to the Board of Public Services as follows:

1. Nominating Organisations:

a) Hungarian Academy of Sciences

b) Hungarian Catholic Church

c) Hungarian Reformed Church

d) Hungarian Evangelical Church

e) Alliance of the Jewish Communities of Hungary

f) Hungarian Olympic Committee

g) Hungarian Rectors' Conference

h) Hungarian Chamber of Commerce and Industry

i) alliances and organisations of the local governments of Hungary

j) national local governments of nationalities living in Hungary

k) Hungarian cultural organisations with more than one hundred members registered in the neighbouring countries of Hungary

l) advocacy groups registered in Hungary falling under the scope of the Act of the Right of Association protecting and representing the interests of families, the by-laws of which reflect the national scope of their operations

m) advocacy groups registered in Hungary falling under the scope of the Act of the Right of Association protecting and representing the interests of persons living with disabilities, the by-laws of which reflect the national scope of their operations

n) professional organisations active in the field of literature, theatre, film, performing arts, music, dance, fine or applied arts registered in Hungary, falling under the scope of the Act on the Right of Association, the by-laws of which reflect the national scope of their operations, and the members of which are primarily persons and organisations active in the above listed fields.

2. The organisations listed under Points (a)-(h) may delegate one member each.

3. The organisations listed under Points (i)-(n) may participate in the delegation process if they

register with the Office at least thirty days prior to the delegation. The Office shall decide on the registration in a regulatory decision, against which decision no appeal may be lodged, however its judicial review can be requested.

4. The organisations listed under Points (i)-(n) may delegate one member each in a manner that the organisations listed under the same Point may delegate only one member. The organisations listed and registered under the same Point may come to an agreement regarding the delegated person. If no such agreement is reached, the Office shall draw lots to determine the organisation whereof a candidate may be delegated.

*Annex no. 2 to Act CLXXXV of 2010 [not in effect]*

*Annex no. 3 to Act CLXXXV of 2010 [not in effect]*

*Annex no. 4 to Act CLXXXV of 2010 [not in effect]*

The amount of the public service contribution in 2012 – based on a calculation taking into account four million Hungarian households each contributing a monthly amount of one thousand three hundred and fifty forints – will be 64,800,000,000 forints that is sixty-four billion and eight hundred million forints. This amount shall be indexed annually as from 2013 at least by the Hungarian index of consumer prices of the year preceding the year under review.

*Annex no. 5 to Act CLXXXV of 2010 [not in effect]*