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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

THE MEDIA LAWS¹

**ACT CLXXXV OF 2010
ON MEDIA SERVICES AND MASS MEDIA**

**ACT CIV OF 2010 ON THE FREEDOM OF THE PRESS
AND THE FUNDAMENTAL RULES OF MEDIA CONTENT**

AND

**ACT XXII OF 2014 ON PROGRESSIVE TAX
ON ADVERTISING REVENUE FOR MEDIA**

OF HUNGARY

¹ *Official translation*

Act CLXXXV of 2010

on Media Services and on the Mass Media¹

Recognizing the need for fostering community and individual interests as well as social integrity, for the purpose of bolstering democracy and for enhancing national and cultural identity, with due regard to the Fundamental Law, constitutional principles, international legal commitments and European Union policies, taking into account the circumstances resulting from technological development, to protect and preserve the right to freedom of opinion and expression, and freedom of the press, recognizing, furthermore, the outstanding cultural, social and economic role of media services and the importance of ensuring competition on the media market, Parliament has adopted the following Act on media services and on the mass media:²

PART ONE

GENERAL PROVISIONS

Chapter I

Scope

Section 1

(1)³ The Act shall apply to the media services provided and the press products published by media content providers established in Hungary.

(2) For the purposes of this Act, a media content provider shall be deemed to be established in the territory of Hungary in the following cases:⁴

*a)*⁵ the media content provider uses a frequency appertaining to Hungary for the dissemination of analogue media services, or the media product is accessible through an electronic communications identification code designated primarily for users from Hungary;

*b)*⁶ the media content provider has its head office in the territory of Hungary and the editorial decisions about the provision of media content are taken in the territory of Hungary;

*c)*⁷ the media content provider has its head office in the territory of Hungary but editorial decisions are taken in another country, or vice versa, provided that a significant part of the workforce involved in the pursuit of the media content service activity operates in the territory of Hungary;

*d)*⁸ if a significant part of the workforce involved in the pursuit of the media content service activity operates in the territory of Hungary and in other States as well, the media content provider shall be deemed to be established in the territory of Hungary if it has its head office there;

¹ Promulgated on 31 December 2010.

² Amended: by subparagraph a) Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.

³ Amended: by subparagraph b) Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.

⁴ Amended: by subparagraph c) Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.

⁵ Amended by Subsection (75) of Section 64 of Act CVII of 2011. Amended: by subparagraph d) Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.

⁶ Amended: by subparagraph e) Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.

⁷ Amended: by subparagraph e) Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.

⁸ Established: by Section 20 of Act CXXI of 2013. In force: as of 5. 07. 2013.

e)¹ if it has its head office in the territory of Hungary but editorial decisions are taken in another country, or vice versa, the media content provider shall be deemed to be established in the territory of Hungary if it first began its activity in the territory of Hungary, provided that it maintains a stable and effective link with the Hungarian economy; or

f)² if it provides media services by exercising provisional digital broadcasting rights under Paragraph b) of Subsection (1) of Section 43/A of Act LXXIV of 2007 Laying Down Provisions for Broadcasting and for Transition to Digital Technology (hereinafter referred to as „DTA”).

(3)³ This Act shall also apply to media services provided by a media content provider that is not deemed to be established in Hungary on the basis of Subsections (1)-(2), and that is not deemed to be established in another Member State either, if it uses a satellite up-link situated within the territory of Hungary, or it uses the satellite capacity appertaining to Hungary.

(4)⁴ If, on the basis of Subsections (1)-(3), it cannot be established whether a media content provider falls within the jurisdiction of Hungary or another Member State, the media content provider shall be deemed to fall within the jurisdiction of the Member State in which it is deemed to be established within the meaning of Articles 49-55 of the Treaty on the Functioning of the European Union.

(5)⁵ This Act shall apply to media services and press products which are not covered by Subsections (1)-(4), and which are directed towards the territory of Hungary, or distributed or published in the territory of Hungary subject to the conditions set out in Sections 176-180.

(6)⁶ This Act shall apply to the media services and press products which are directed towards the territory of Hungary or which are distributed or published in the territory of Hungary by a media content provider that is not deemed to be established in any Member State and the media services or press products of which are not subject to the jurisdiction of any of the Member States.

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

Section 2

(1)⁷ In certain instances stipulated herein, this Act shall cover complementary media services related to broadcasting services provided within the territory of Hungary and to the provider of such services.

(2) In certain instances stipulated herein, this Act shall apply to:

a)⁸ broadcasting carried out with an electronic communications device installed within the territory of Hungary or directed towards the territory of Hungary;

b) the technical activities of the media service provider in connection with the broadcasting described in Paragraph a);

c) the activities of providers of complementary media services in connection with the broadcasting described in Paragraph a);

d)⁹ publications.

(3) In certain instances stipulated herein, this Act shall apply to natural and legal persons and other unincorporated organizations, and their executive officers carrying out the activities or providing the services specified in Subsection (2) or carrying out any activity or providing any service related thereto.

(4) In certain instances stipulated herein, this Act shall apply to the intermediary service providers engaged in intermediating media services or the press products and the services of such providers.

(5) In certain instances stipulated herein, this Act shall apply to the viewers, the listeners or the readers of the media services, complementary media services and press products and the users, consumers and subscribers of broadcasting services falling within the scope of this Act.

¹ Established: by Section 20 of Act CXXI of 2013. In force: as of 5. 07. 2013.

² Enacted: by Section 20 of Act CXXI of 2013. In force: as of 5. 07. 2013.

³ Amended: by subparagraph f) Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.

⁴ Amended: by subparagraph c) Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.

⁵ Amended: by subparagraph e) Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.

⁶ Amended: by subparagraph g) Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.

⁷ Amended: by subparagraph d) Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.

⁸ Amended: by subparagraph e) Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.

⁹ Enacted by Subsection (1) of Section 64 of Act CVII of 2011, effective as 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

Chapter II

FUNDAMENTAL PRINCIPLES

Section 3¹

In Hungary media services may be provided and press products may be published freely, information and opinions may be transmitted freely through means of mass media, and media services originating in Hungary and elsewhere, intended for the general public may be accessed freely. The contents of media services and press products may be determined freely, however, the media service provider and the publisher of press products are held accountable to comply with the provisions of this Act.

Section 4

The diversity of media services has a particularly important public value. The protection of diversity extends to avoiding the formation of ownership monopolies and any undue restriction of competition on the market. The provisions of this Act shall be interpreted in due consideration of the protection of diversity.

Section 5²

The right to providing and receiving information of those living within the territory of Hungary and members of the Hungarian Nation, and in this context the development and enhancement of publicity in a democratic society are significant constitutional values. The provisions of this Act shall be interpreted in due consideration of the interests of democratic public opinion.

Section 6

Public service broadcasting is essential for the appropriate functioning of a democratic society. The interests of public service broadcasting shall be given particular emphasis in terms of the application of this Act.

Section 7

(1) In the course of carrying out the activities falling within the scope of this Act, the media service providers, publishers of press products, providers of complementary media services and broadcasters shall act in accordance with the principles of good faith and fairness and with the provisions of this Act, and shall be required to cooperate with one another and the viewers, listeners, readers, users and subscribers.

(2) The broadcasters, media service providers, and providers of complementary media services shall be liable to operate and provide the electronic info-communication networks, electronic communications services, digital programs and complementary media services between each other in accordance with pre-arranged technical specifications, forming a unified system required to establish the necessary connection and to supply services either directly or with the integration of proper interfaces, network parts, elements, devices or services.

Section 8

¹ Amended: by subparagraph h) Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.
² Amended: by subparagraph i) Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.

The self-regulatory trade organizations comprising the media service providers, publishers of press products, intermediary service providers and broadcasters, 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 PROVISIONS RELATING MEDIA SERVICES AND PRESS PRODUCTS

Chapter I

REQUIREMENTS REGARDING THE CONTENTS OF MEDIA SERVICES

Protection of Children and Minors

Section 9

(1) Media service providers providing linear media services shall assign a rating to each and every program they intend to broadcast in accordance with the categories under Subsections (2)-(7) prior to broadcasting, with the exception of news programs, political magazines, sports programs, previews and advertisements, political advertisements, teleshopping, social advertisements and public service announcements.

(2) Category I shall include programs which may be viewed or listened to by all audiences.

(3)¹ Category II shall include programs which may trigger fear in a viewer under the age of six, or that they cannot comprehend or may misunderstand due to their age. These programs shall be classified as "Not recommended for audiences under the age of six".

(4)² Category III shall include programs which may trigger fear in a viewer under the age of twelve, or that they cannot comprehend or may misunderstand due to their age. These programs shall be classified as "Not recommended for audiences under the age of twelve".

(5)³ Category IV shall include the programs which might impair the physical, mental or moral development of minors under the age of sixteen, in particular those that involve gratuitous violence or sexual content, or are dominated by conflict situations resolved by violence. These programs shall be classified as "Not recommended for viewing for audiences under the age of sixteen".

(6) Category V shall include the programs which might impair the physical, mental or moral development of minors, in particular those that are dominated by graphic scenes of violence and/or sexual content. These programs shall be classified as "Not recommended for viewing for audiences under the age of eighteen".

(7) Category VI shall include programs which may seriously impair the physical, mental or moral development of minors, particularly those that involve pornography or extreme and/or scenes of gratuitous violence.

(8) The Media Council of the Nemzeti Média- és Hírközlési Hatóság (*National Media and Infocommunications Authority*) (hereinafter referred to as "Media Council") shall make recommendations concerning the fundamental aspects of judicial principles relating to the detailed guidelines governing the ratings referred to in Subsections (2)-(7), the signs to be used prior to and in the course of broadcasting the various programs 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.

¹ Amended by Subsection (75) of Section 64 of Act CVII of 2011.

² Amended by Subsection (75) of Section 64 of Act CVII of 2011.

³ Amended by Subsection (75) of Section 64 of Act CVII of 2011.

(9) At the request of a media service provider, the Media Council shall adopt an official resolution - upon payment of an administrative service fee - on the rating of a program within fifteen days from having received the program in question.

(10) If a media service provider assigns a higher rating to a program than it would be normally required according to Subsections (2)-(6) it shall not be construed a violation of Subsections (1)-(7).

Section 10

(1) In linear media services:

*a)*¹ a program classified under Category II cannot be broadcast among programs intended for persons under the age of six, but may, at any time, be broadcast using the proper rating;

*b)*² a program classified under Category III cannot be broadcast among programs intended for persons under the age of twelve, but may, at any time, be broadcast using the proper rating;

c) a program classified under Category IV may only be broadcast between 9.00 p.m. and 5.00 a.m. using the proper rating;

d) a program classified under Category V may only be broadcast between 10.00 p.m. and 5.00 a.m. using the proper rating;

e) a program classified under Category VI may not be broadcast;

f) a preview may not be broadcast at a time when the program it introduces or presents may not otherwise be broadcast or at a time when upon the proper rating of such preview it may not be broadcast;

g) the preview of a program classified under Category III may not be broadcast during the interval of or immediately prior to or subsequent to a program intended for viewers under the age of twelve;

h) sports programs, commercial communications and community facility advertisements may not be broadcast at a time when it is foreseeable that upon their proper rating based on its contents, they may not otherwise be broadcast.

(2) In linear media services:

a) a program may only be broadcast in compliance with its rating, subject to the exceptions provided for by this Act;

b) the rating of the program shall be communicated at the time when broadcasting of the program begins.

(3) In the case of a linear radio media service the rating does not have to be communicated provided that:

a) the program falling within Categories II and III is broadcast between 9.00 p.m. and 5.00 a.m.;

b) the program falling within Categories IV and V is broadcast between 11.00 p.m. and 5.00 a.m.

(4) In linear audiovisual media services, at the time the specific program is broadcast a sign corresponding to the rating of the program shall also be displayed in the form of a pictogram in either corner of the screen so that it is clearly visible throughout the entire length of the program. The pictogram shall indicate the relevant age limit in a numerical display. In case of Category I programs it is not necessary to display the sign. In case of a linear radio media service it is not necessary to use a permanent sign.

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

a) the program falling within Categories II and III is broadcast between 9.00 p.m. and 5.00 a.m.;

b) the program falling within Category IV is broadcast between 10.00 p.m. and 5.00 a.m.; or

c) the program falling within Category V is broadcast between 11.00 p.m. and 5.00 a.m.

In this case the sign corresponding to the classification of the program shall be displayed when the program begins, and at the time the program continues following any interruption (commercial break) in the program.

¹ Amended by Subsection (75) of Section 64 of Act CVII of 2011.

² Amended by Subsection (75) of Section 64 of Act CVII of 2011.

(6)¹ The provisions contained in Paragraphs *c)-f)* and *h)* of Subsection (1) and under Subsections (2) and (4) shall not apply if the media service contains the program in an encrypted form and decryption may only be executed by the application of a code, which the media service provider only makes available 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 media service in question. If necessary, the Media Council shall issue recommendations in respect of effective technical solutions subsequent to holding a public hearing.

(7) The rating of each and every program in accordance with Section 9 shall be displayed in a clearly visible manner in the media product or the website, or the videotext and teletext of the media service provider (provided it has any of these) providing information about the programs of the media service provider.

Section 11

(1) The provisions under Subsections (6)-(7) of Section 9 shall apply to on-demand media services.

(2)² Pursuant to Subsection (2) of Section 19 of Act CIV of 2010 on Freedom of the Press and on the Basic Rules Relating to Media Content (hereinafter referred to as „Press Act”), the media service provider of on-demand media services or the broadcaster of such services shall use an effective technical solution to prevent minors from accessing its programs falling within categories V and VI.

(3) If necessary, the Media Council shall make recommendations in respect of the effective technical solutions referred to Subsection (2), subsequent to holding a public hearing.

Information Activities

Section 12

(1) The information function of media services shall comply with the obligation set out under Section 13 of the Press Act.

(2) Subject to the nature of the programs, information shall be balanced within a given program or in the series of programs shown regularly.

(3) The regular staff of a media service provider participating in the media service provider's political and news programs as a presenter, anchorman, newscaster or correspondent may not give any opinion or relay their personal views or evaluation, other than news commentary, to the political news appearing in the program broadcast by any media service provider.

(4) Any opinion or evaluation relayed in connection with the news disseminated shall be clearly identified as such with the name of the author specified, and shall be distinguished from the news.

Section 13³

Warning on Offensiveness

Section 14⁴

¹ Established by Subsection (2) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

² Established by Subsection (3) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

³ Repealed with preceding subtitle: by subparagraph a) paragraph (2) Section 160 of Act XXXVI of 2012. No longer in force: as of 20. 04. 2012.

⁴ Established by Subsection (4) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

Prior to broadcasting any image or sound effects that is likely to harm the religious convictions or beliefs, or other philosophical convictions, or which are violent or otherwise disturbing, the viewers and listeners must be given a fair warning beforehand.

Addressing Crisis Situations in Media Services

Section 15

During a state of distress, state of emergency or state of extreme danger, or in the event of unforeseen invasion of the territory of Hungary by foreign armed bodies, or in connection with operations for the protection of the nation's territory by air defense and air forces of the Hungarian Army, Parliament, the Defense 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 necessary to transmit, 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 broadcasting of certain announcements or programs. The Médiaszolgáltatás-támogató és Vagyonkezelő Alap (*Media Service Support and Asset Management Fund*) shall be responsible for providing the conditions necessary for broadcasting. At the time of broadcasting, the person or institution ordering the broadcast shall be clearly identified.

Exclusive Broadcasting Rights

Section 16

(1) The audiovisual media service provider may not exercise exclusive broadcasting rights so as to deprive a substantial proportion (more than twenty percent) of the domestic audience having access to the audiovisual media services from the possibility of viewing events, by live coverage or deferred coverage, considered to be of major importance for society, through an audiovisual media service that is accessible without the payment of a subscription fee.

(2)¹ The Media Council shall compile - subsequent to a public hearing - a list of designated events considered to be of major importance for society to be enforced with respect to the audiovisual media service providers referred to in Subsection (1). As regards the events listed, the Media Council shall also determine whether these events should be available by whole or partial live coverage or, where necessary or appropriate for objective reasons in the public interest, whole or partial deferred coverage.

(3)² The list provided for in Subsection (2) shall be drawn up in consideration of specific criteria, such that events considered to be of major importance for society:

a) should have a special general resonance, and not simply a significance to those who ordinarily follow the sport or activity concerned, or a generally recognized, distinct cultural importance for the population, in particular as a catalyst of cultural identity; and

b) should entail the involvement of a Hungarian athlete or the national team of Hungary in the event concerned in the context of a competition or tournament of international importance, and the fact that the event has traditionally been broadcast on free television and has commanded large television audiences.

(4)³ The Media Council shall submit the draft of the list referred to in Subsection (2), including a detailed explanation, to the European Commission for approval. The list provided for in Subsection (2) shall enter into effect upon being published in the Official Journal of the European Union. Compilation and approval of the list provided for in Subsection (2) shall not be treated as administrative proceedings or administrative action as provided for in the Act on the General Rules of Administrative Proceedings and Services (hereinafter referred to as "APA").

¹ Established by Section 38 of Act XXXIX of 2014, effective as of 30 September 2014.

² Established by Section 38 of Act XXXIX of 2014, effective as of 30 September 2014.

³ Established by Section 38 of Act XXXIX of 2014, effective as of 30 September 2014.

(5)¹ The Media Council may amend the list provided for in Subsection (2) in accordance with the criteria defined in Subsection (3). The provisions of Subsection (4) shall apply to the amended list *mutatis mutandis*.

(6)² Subsection (1) of this Section and Subsection (1) of Section 18 shall not apply to exclusive rights lawfully acquired before the entry into effect of the first list adopted under Subsection (2) hereof, or before the entry into effect of any subsequent amendment thereof.

(7)³

Section 17

(1) Exclusive broadcasting rights shall not be exercised so as to deprive a substantial proportion of the audience in a Member State from viewing events, via an audiovisual media service, considered to be of major importance to such audience and appearing on a 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, promulgated by Act XLIX of 1998 (for the purposes of this Subsection and Section 18 hereinafter referred to as "*Protocol*"), must be exercised in conformity with the provisions concerning the broadcasting of designated events considered to be of major importance for society by the States which are party to the Protocol.

Section 18

(1)⁴ If exercising exclusive broadcasting rights would deprive at least twenty percent of the domestic audience from following the events specified in Subsection (2) of Section 16 via an audiovisual media service, the audiovisual media service provider 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 linear audiovisual media service provider (hereinafter referred to as "*contracting partner*"), who provides services accessible by at least eighty percent of the citizens of Hungary without the payment of a subscription fee, when approached by such a provider, for the broadcasting of the said event live or by deferred coverage. Under such circumstances, the media service provider having exclusive broadcasting rights may not refer to not being entitled to transfer such exclusive rights.

(2) Any media service provider having exclusive rights for the audiovisual broadcasting of an event that has been designated in accordance with the applicable international regulations as being considered to be of major importance for society by any State that is a party to the Protocol 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 a major foreign provider of audiovisual media services, who falls within the jurisdiction of that State and 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 broadcasting techniques into consideration, when approached by such a provider concerning the broadcast of the said event.

(3) Any media service provider having exclusive rights for the broadcasting of an event that has been designated as being of major importance for society by any Member State, 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 a major nonresident 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 provider concerning the broadcast of the said event.

(4) The terms and conditions of the contracts defined under Subsections (1)-(3) shall be fixed in detail by the parties concerned.

1 Established by Section 38 of Act XXXIX of 2014, effective as of 30 September 2014.

2 Established by Section 38 of Act XXXIX of 2014, effective as of 30 September 2014.

3 Repealed by Paragraph a) of Subsection (2) of Section 50 of Act XXXIX of 2014, effective as of 30 September 2014.

4 Amended: by subparagraph c) Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.

(5) In the cases specified under Subsections (1)-(3) the parties concerned shall be subject to contracting obligation. In the event the parties fail to reach an agreement or fail to agree on the fees within fifteen days subsequent to an offer having been made, the contracting partner or the media service provider with exclusive broadcasting rights may initiate proceedings for action in dispute defined under Sections 172-174. The Media Council shall adopt a decision in such proceedings for action in dispute within fifteen days. In justified cases, the administrative time limit may be extended by fifteen days.

(6) The records of the Media Council shall be applicable as to the accessibility of the media services for the purposes of Sections 16 and 18.

Short News Reports

Section 19

(1)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 of events considered to be of major importance, which appear on the list defined in Subsection (2) of Section 16 or designated as such in any other Member State and broadcast under exclusive broadcasting rights by an audiovisual media service provider established in Hungary. Access shall take place by means of obtaining the signal of the media service, by filming at the location of the event or by receiving the footage recorded on the event.

(2) If an audiovisual media service provider established in the same Member State where the audiovisual media service provider requesting 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 cases specified under Subsections (1) the parties concerned shall be subject to contracting obligation. The contract shall be entered into under reasonable terms and conditions. The price charged for the right of access may not exceed the costs directly arising in connection with providing access. If the parties fail to reach an agreement within fifteen days subsequent to an offer having been made, either of the parties may initiate proceedings for action in dispute according to Sections 172-174. The Media Council shall adopt a decision in such proceedings for action in dispute within fifteen days. In justified cases, the administrative time limit may be extended by fifteen days.

(4) The audiovisual media service provider, which obtained a right of access, may freely select the parts of the program it intends to use for the purposes of the short news report.

(5) The total length of parts to be broadcast may not exceed ten percent of the total length of the program concerned, in any case fifty seconds at most. The contract may contain provisions for permitting 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 exclusive broadcasting rights with which it entered into an agreement on broadcasting.

(7) The parts of the program, which may be used on the basis of an agreement cannot be broadcast individually; it may be broadcast only as part of general news and information programs. 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 programs containing the short news report are identical in both the linear and in the on-demand audiovisual media services.

Program Quotas

Section 20²

(1) The media service provider shall allocate:

¹ Amended by Paragraph a) of Subsection (1) of Section 50 of Act XXXIX of 2014.

² Established: by paragraph (1) Section 26 of Act LXVI of 2012. In force: as of 3. 07. 2012.

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

b) at least ten percent of its annual transmission time of linear audiovisual media services to broadcasting European works, and at least eight percent of its transmission time to broadcasting Hungarian works made to order by independent producers or purchased from such producers within five years of production.

(2) Over one-quarter of the total sum of the length of the programs made available in a given calendar year in the program schedule of on-demand audiovisual media services shall be composed of European works, and at least ten per cent shall be composed of Hungarian works.

☞(3)¹ Public media service providers shall allocate:

☞a) over sixty per cent of their annual transmission time of linear audiovisual media services to broadcasting European works;

☞b) over half of their annual transmission time of linear audiovisual media services to broadcasting Hungarian works;

☞c) over fifteen per cent of their annual transmission time of linear audiovisual media services for European works made to order by independent producers or that were purchased from such producers within five years of their production.

(4) The obligation of publishing Hungarian works as prescribed in Subsections (1)-(2) shall exclusively apply to media services directed towards the territory of Hungary.

Section 21

(1)² In linear radio media services at least thirty-five percent of the transmission time dedicated to broadcasting musical works shall be allocated to broadcasting Hungarian musical works.

(2)³ In linear radio media services at least twenty-five percent of the Hungarian musical works to be broadcast shall be from musical works released within five years or produced within five years.

☞(3)⁴ Those musical recordings made before 1990, that has been remastered digitally within not more than five years from the date of publication, shall be construed as sound recordings made within not more than five years ago having regard to Subsection (2).

Section 22

(1) The provisions set out in Sections 20-21 shall not apply to:

a) media services used exclusively for advertising purposes and media services for broadcasting teleshopping;

b) media services used exclusively for promoting 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 that of the Member States of the European Union; where programs are broadcast in this language or languages in the majority of the transmission time, the provisions shall not apply to the given part of transmission time;

d) local media services with the exception of community media services;

e) any media service that is broadcast exclusively in states outside the European Union.

(2) Media service providers may, upon request addressed to the Media Council, also attain the ratios defined in Section 20-21 gradually, in a manner laid down in a public contract with the Media Council. Such exemption granted in a public contract may only be authorized for a maximum of three calendar years on condition that the media service provider shall gradually increase the ratio of Hungarian and European works it has broadcast and works produced by an independent producer until it reaches the prescribed ratios.

1 Established by Section 2 of Act CVII of 2014, effective as of 1 January 2015.

2 Established by Subsection (5) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

3 Established by Subsection (5) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

4 Enacted by Section 3 of Act CVII of 2014, effective as of 1 January 2015.

(3)¹ The public contract entered into with a service provider offering radio media services and on-demand media services may, in justified cases, permit a long-term or permanent deviation from the ratios defined in Sections 20-21. The public contract entered into with the media service provider offering linear audiovisual thematic media services may, in justified cases, permit the media service provider to fulfill its obligation under Paragraph *b*) of Subsection (1) of Section 20 and Paragraph *c*) of Subsection (3) of Section 20 with works produced over five years ago.

(4) Save for the case stipulated under Subsection (3), no general exception may be granted from the provisions relating to program quotas.

(5)² The percentage of European works under Paragraph *a*) Subsection (1) of Section 20, the percentage requirements under Paragraph *a*) Subsection (3) of Section 20 and Subsection (1) of Section 21, as well as the percentage requirements laid down in the public contracts concluded under Subsections (2)-(3) of this Section - having regard to Paragraph *a*) Subsection (1) of Section 20, Paragraph *a*) Subsection (3) of Section 20 and Subsection (1) of Section 21 - shall also be satisfied during the transmission time of media services between 5.00 a.m. and 12.00 p.m.

(6)³ Media service providers providing more than one service shall meet the percentage requirements defined in Sections 20-21 on average in the consolidated transmission time of all of their media services, where the ratio of Hungarian musical works shall be at least twenty per cent in each media service in order to meet the requirement set out in Subsection (1) of Section 21. This provisions applies solely to those program quota requirements from which the media service provider has not been exempted under the public contracts entered into on the basis of Subsections (2)-(3) of Section 22.

(7) For the purposes of Sections 20-21, transmission time allocated to news programs, sports programs, games, commercials, teleshopping, political advertisements, public service announcements, sponsorship announcements, community facility advertisements and videotext shall not be included to comprise a part of total transmission time.

(8)⁴ Media service providers shall supply data to the Media Council on a monthly basis for verification of compliance with the provisions concerning program quotas. The reasoned request for exemption under Subsections (2)-(3) for the upcoming year shall be submitted to the Media Council on or before 30 September each year. In connection with a new media service, the request may be submitted at the same time when the registration procedure is initiated.

Commercial Communications

Section 23

The provisions of Subsections (1)-(7) of Section 20 of the Press Act shall also apply to commercial communications broadcast in media services.

Section 24

(1) Commercial communications broadcast in media services:

- a*) shall not prejudice respect for human dignity;
- b*) shall not include or promote any discrimination based on sex, racial or ethnic origin, nationality, religion or belief, physical or mental disability, age or sexual orientation;
- c*) shall not directly exhort minors to buy or hire a product or service;
- d*) shall not directly encourage minors to persuade their parents or others to purchase the goods or services being advertised;
- e*) shall not exploit the special trust of minors placed in their parents, teachers or other persons or the inexperience of and credulity of minors;
- f*) shall not unreasonably show minors in dangerous situations;

¹ Established: by paragraph (2) Section 26 of Act LXVI of 2012. In force: as of 3. 07. 2012.

² Established by Subsection (6) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

³ Established by paragraph (3) Section 26 of Act LXVI of 2012. Amended by Paragraph *b*) of Section 49 of Act XXXIX of 2014.

⁴ Amended by Subsection (75) of Section 64 of Act CVII of 2011.

g) shall not express religious, philosophical and other similar beliefs, with the exception of commercial communications broadcast in special-interest media services on religion;

h) shall not prejudice the dignity of a national symbol or a religious conviction.

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

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 link the consumption of alcoholic beverages to enhanced physical performance or to driving;

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

g) shall not claim that alcohol has therapeutic qualities or that the consumption of alcoholic beverages is a stimulant or a sedative, or that alcoholic beverages are a means of resolving personal conflicts;

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.

Section 25

Any person on whose behalf a commercial communication is broadcast, or any other person who has an interest in the broadcasting thereof, shall not exercise editorial influence concerning the media service, except for the date of publication.

Sponsorship of Media Services and Programs

Section 26

(1) The provisions of Subsections (8)-(10) of Section 20 of the Press Act shall also apply to the sponsorship of media services and programs.

(2) In the case of a sponsored media service or program the identification of the sponsor - pursuant to Subsection (8) of Section 20 of the Press Act - may take place by reference to the name or the trademark of the sponsor or another enterprise designated by it, or by the publication or use of an image of the sponsor or another enterprise designated by it, or by reference to its product, activity or service or the publication or use of the distinguishing sign or logo thereof.

(3) The publication under Subsection (2) may take place simultaneously with the program, prior to or after the end of the program in a manner that is not harmful to the nature and content of the sponsored program.

Section 27

(1) The following may not sponsor a media service or a program:

a) political parties and political movements;

b) companies engaged in the manufacturing of tobacco products.

c) companies engaged in the pursuit of gambling activities without the state tax authority's authorization.

(2) In addition to what is contained in Paragraph b) of Subsection (1), companies whose main activity is the manufacture or wholesale of products which cannot be advertised in accordance with this Act, or providing services in connection with such products, may not sponsor a media service or a program by the display or promotion of such products or services.

(3) The prohibition set out in Subsection (7) of Section 20 of the Press Act shall not apply to sponsorship requiring the communication of the name and trademark of a company involved in connection with pharmaceutical products and therapeutic processes, nor to the sponsorship of pharmaceutical products or therapeutic products or methods which are available without a doctor's prescription. Programs sponsored by a company involved in the manufacture and distribution of pharmaceutical products and therapeutic products, or in the supply of therapeutic processes, may not promote pharmaceutical and therapeutic products, and therapeutic processes which are available with a doctor's prescription only.

(4) The name, slogan or emblem of a political party or a political movement shall not appear in any reference to the real or indicated name of the sponsor.

(5) The concept of sponsorship of an audiovisual media service or program or surreptitious commercial communication shall not cover where the name or the logo of the sponsor of a public event or the participants of the event, or the product or the service of the sponsor appears on the screen during the broadcast from the event, including the interviews made in connection with the event before or after the event or during any intermission of the event, provided that the media service provider has no business interest in such appearance and the manner of appearance does not give undue prominence to the sponsor.

(6) If a person or a business entity sponsoring another person or business entity, which appears in a program of the audiovisual media service provider or the name, the symbol or the logo of such sponsor, whether a person or business entity, appears in the program, with the exception of the case referred to under Subsection (5), the provisions governing the sponsorship of media services and programs shall apply, not including the obligation to identify the sponsor.

Section 28

(1) The following may not be sponsored in an audiovisual media service:

- a)* news programs and political information programs;
- b)* programs reporting on the official events of national holidays.

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

(3) The restriction defined in Paragraph *a)* of Subsection (1) shall not affect the sponsorship of thematic media services broadcasting news programs and political magazines.

Section 29¹

Product Placement in Programs

Section 30

(1) Subject to the exceptions set out in Subsection (2), product placement in media services shall be prohibited.

(2) Product placement in programs shall be admissible:

a) in cinematographic works intended for showing in movie theaters; cinematographic works, films and series made for media services; sports programs and entertainment programs;

b) in programs other than the ones mentioned in Paragraph *a)*, provided that the manufacturer or distributor of the product in question, or the supplier or agent of the service does not provide the producer of the given program with any financial reward either directly or indirectly with the exception of making available a product or service free of charge for the purpose of placement.

(3) Product placement shall be prohibited:

a) in news programs and political information programs;

b) save where Paragraph *b)* of Subsection (2) applies, in programs made specifically for minors under the age of fourteen;

c) in programs reporting on the official events of national holidays;

¹ Repealed: by paragraph (9) Section 31 of Act LXVI of 2012. No longer in force: as of 3. 07. 2012.

- d) in programs of religious or ecclesiastic content.
- (4) Programs shall not contain product placement with respect to the following products:
- a) tobacco products, cigarettes or other products from companies whose principal activity is the manufacture or sale of cigarettes and other tobacco products;
 - b) products that may not be advertised pursuant to this Act or other legislation;
 - c) pharmaceutical products, therapeutic products or processes available only on prescription.
 - d)¹ gambling services provided without the state tax authority's authorization.

Section 31

- (1) Programs that contain product placement shall meet the following requirements:
- a) their content and, in the case of a linear media service, their scheduling shall not be influenced in such a way as to affect the responsibility and editorial independence of the media service provider;
 - b) they shall not directly encourage the purchase or rental of goods or services;
 - c) they shall not give undue prominence to the product in question, which does not otherwise stem from the content of the program.
- (2)² Viewers shall be clearly informed of the existence of product placement. Programs containing product placement shall be appropriately identified - using optical or acoustical means - at the start and the end of the program, and when a program resumes after an advertising break.
- (3)³ The obligation stipulated in Subsection (2) shall not apply to those programs that have neither been produced nor commissioned by the media service provider itself or another media service provider operating under the qualifying holding of its owner.
- (4) If necessary, the Media Council shall make recommendations in respect of product placement and compliance with the requirements set out in this Act concerning the calling of attention thereto, subsequent to holding a public hearing.

Political Advertisements, Public Service Announcements, Community Facility Advertisements

Section 32

- (1) Any person on whose behalf a political advertisement, public service announcement or community facility advertisement is broadcast, or any other person who has an interest in the broadcasting thereof, shall not exercise editorial influence concerning the media service.
- (2) The political advertisement, public service announcement and community facility advertisement shall be readily recognizable as to its nature and distinguishable from other media contents. The method of distinction in linear media services:
- a) shall take place by optical and acoustic means in the case of audiovisual media services;
 - b) shall take place by acoustic means in the case of radio media services.
- (3)⁴ During electoral campaign periods political advertisements may only be published in media services in accordance with the provisions of the Act on Election Procedures. Outside electoral 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 political advertisements. If the request for the publication of a political advertisement complies with the provisions of the Act on Election Procedures, the media service provider shall publish the advertisement without any discretion.
- (4) The person having commissioned the political advertisement, public service announcement and community facility advertisement shall be clearly identified in the course of publication.
- (5) The media service provider may not request any consideration in exchange for the publication of public service announcements.

1 Enacted: by Section 43 of Act CXXV of 2011. In force: as of 1. 01. 2012.

2 Amended by Subsection (75) of Section 64 of Act CVII of 2011.

3 Amended by Subsection (75) of Section 64 of Act CVII of 2011.

4 Established: by Section 366 of Act XXXVI of 2013. In force: as of 3. 05. 2013.

(6) The public or community media service provider or the media service provider with dominant influence shall publish the public service announcement of the government disaster relief 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. The publication shall take place in the media service of the media service provider which has the highest annual audience share on average, by way of the means defined by the media service provider, with the exception of the case set out in Subsection (6) of Section 36. The publication obligation shall also apply to the provider of local media services operating in the area of transmission where the events are taking place.

(7) The duration of a public service announcement may not exceed one minute. This restriction shall not apply to the public service announcements under Section 15 and Subsection (6) of this Section.

(8) Upon the media service provider's request, the Media Council shall adopt an official resolution within fifteen days from having received the request - for an administrative service fee - to determine whether the announcement in respect of which the request is lodged should be treated as a public service announcement, a community facility advertisement or a political advertisement.

(9) Information concerning the social or public service commitment of a business entity shall not be construed as a surreptitious commercial communication, provided that such report only contains the name, logo and trademark of the business entity in question and - if it is closely connected to its social or public service commitment - its goods and/or services. The slogan of the business entity or any part of its commercial communication may not appear in the report and the information may not expressly encourage the purchase of the product or service of the business entity.

Advertising and Teleshopping in Linear Media Services

Section 33

(1) The method of distinction of advertisements and teleshopping from other media content in linear media services shall take place:

a) by optical or acoustic means in the case of advertisements and teleshopping broadcast in an audiovisual media service;

b) by optical and acoustic means in the case of teleshopping windows broadcast in an audiovisual media service;

c) by acoustic means in the case of radio media services.

(2) In linear media services, where advertisement or teleshopping is inserted during programs - taking into account natural breaks in, and the duration and the nature of, the program concerned - the integrity of the program and the rights or legitimate interests of the copyright holder and the holder of related rights may not be prejudiced.

(3) Programs broadcast in linear media services:

a) disseminating political news or containing political information, if its duration does not exceed thirty minutes;

b) intended for minors under the age of fourteen, if its duration does not exceed thirty minutes;

c) reporting on the official events of national holidays;

d) having religious or ecclesiastic content, not including cinematographic works; may not be interrupted with advertisements or teleshopping.

(4)¹ The average volume or the volume which may be perceived by the viewer or the listener of advertisements, teleshopping or previews broadcast in a linear media service, and the volume of the acoustic notice identifying the advertisements, teleshopping or previews as such may not be louder than the volume of adjacent programs.

(5) Virtual advertisements may be published in linear audiovisual media services only if clearly identified as such by the media service provider by optical or acoustic means immediately before the given program, and immediately after the given program as well. This obligation shall not apply to those programs that have neither been produced nor commissioned by the media service provider itself or another media service provider operating under the qualifying holding of its owner.

¹ Amended by Subsection (75) of Section 64 of Act CVII of 2011.

(6) Virtual or split screen advertisements cannot be inserted in programs broadcast in linear audiovisual media services, which:

- a) contain political news or political information, if their duration does not exceed thirty minutes;
- b) are intended for minors under the age of fourteen, if their duration does not exceed thirty minutes;
- c) report on the official events of national holidays;
- d) have religious or ecclesiastic content; or
- e) are documentaries and their duration does not exceed thirty minutes.

(7) Split screen advertisements may only be broadcast in a linear audiovisual media service clearly identified as such, distinguished from the program visually, covering half of the screen at most, indicating the nature of the advertisement on the screen in a clearly visible manner.

Section 34

(1) Advertisements - with the exception of split screen advertisements and virtual advertisements - in sports programs and other programs which feature natural breaks published in a linear media service may only be broadcast during such breaks.

(2) Cinematographic works, news or political information programs the duration of which exceed thirty minutes - with the exception of television series or documentaries - published in a linear audiovisual media service may only be interrupted with advertisements or teleshopping once in every thirty minutes, including the duration of advertisements and previews.

Section 35

(1)¹ The duration of advertising spots in linear media services may not exceed twelve minutes within a given clock hour, including split screen advertisements, virtual advertisements and the promotion of the programs of other media services, subject to the exception provided for in Paragraph *e*) of Subsection (2).

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

- a) teleshopping windows;
- b) political advertisements;
- c) public service announcements;
- d) community facility advertisements;
- e) previews on the media service's own programs or the programs of another media service operating under the qualifying holding of its owner;
- f) sponsorship announcements as defined under Subsection (2) of Section 26;
- g) product placements;
- h)² videotext, if broadcast in a local media service;
- i) virtual advertisements, which appear in programs which were not produced or commissioned by the media service provider itself, or another media service provider or production company operating under the qualifying holding of its owner;
- j) media service providers broadcasting advertisements and teleshopping windows exclusively;
- k) linear media service providers engaged solely in the promotion of the media service provider or another service of the media service provider;
- l) announcements made solely for the purpose of advertising the media service itself or the products complementing the programs published in the media service.

(3) The transmission time devoted to teleshopping windows may not exceed three hours in a calendar day, not including the transmission time of special-interest media services devoted primarily to teleshopping or teleshopping windows.

Advertisements and Public Service Announcements in Public and Community Media Services

¹ Amended by Subsection (75) of Section 64 of Act CVII of 2011.

² Established by Subsection (7) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

Section 36

(1) The transmission time devoted to advertisements and teleshopping in the public media service provider's linear media service may not exceed eight minutes within a given clock hour. The transmission time devoted to advertisements and teleshopping in the community media service provider's linear media service may not exceed six minutes within a given clock hour.

(2) The transmission time of videotext containing advertisements shall include the duration of advertisements under Subsection (1) in the case of public media services.

(3) Advertisements in public and community media services must be inserted between programs, or between the individual programs in the case of complex programs composed of several parts, or before or after the programs. In sports broadcasts and other broadcasts in which there are natural breaks, advertising may also be inserted between the parts and in the breaks.

(4) Presenters, newscasters and correspondents regularly appearing in programs offering news and political information in public and community media services cannot appear or play a role in advertisements or political advertisements broadcast in any media service, except for the self promotion of public media services.

(5) Split screen advertisements and virtual advertisements may only be published in public and community media services in conjunction with the broadcast of sports programs.

 (6)¹

Publication Obligation

Section 37

(1) Media service providers shall at all times make available to the general public their particulars listed below:

- a) name or corporate name;
- b) address or registered office, or mailing address;
- c) electronic mailing address;
- d) telephone number;
- e) the name and address of the regulatory or supervisory authorities of jurisdiction for proceedings in connection any violation of media regulations;
- f) the name and address of the self-regulatory trade organizations authorized by the media service provider to proceed against it.

(2) Media service providers shall be required to publish the particulars referred to in Subsection (1) on their website and teletext page concerning its media services, provided that they have a website or teletext page. In connection with on-demand media services these particulars shall be published at the point of access as well. Moreover, media service providers are required to ensure that the particulars under Paragraphs a)-c) and e)-f) are made available to interested parties over the telephone as well.

General Interest Obligations of Media Service Providers with Significant Powers of Influence

Section 38

¹ Repealed by Section 31 of Act CVII of 2014, effective as of 1 January 2015.

(1) Linear audiovisual media service providers with significant powers of influence (hereinafter referred to as "SPI") shall be required to broadcast a news program or general information program of at least fifteen minutes on each and every business day between 7.00 a.m. and 8:30 a.m., and a news program of at least twenty minutes on each and every business day between 6.00 p.m. and 9.00 p.m. without interruption. SPI linear radio media service providers shall be required to broadcast a separate news program or general information program of at least fifteen minutes on each and every business day between 6:30 a.m. and 8:30 a.m. without interruption. News content or reports adapted from other media service providers, or news content or reports on crimes, which do not provide information under the democratic principles for the participation of citizens, shall not be longer in duration on an annual average than twenty percent of the duration of the news program.

(2) SPI linear media service providers shall be liable to meet the obligation imposed under Subsection (1) of this Section and Subsection (6) of Section 32 in their media service with the highest annual average audience share.

(3) SPI linear media service providers shall be required to ensure in the course of any and all of its media services disseminated digitally, that at least one quarter of the cinematographic works and film series originally produced in a language other than Hungarian, broadcast between 7.00 p.m. and 11.00 p.m., shall be available in their original language, with Hungarian subtitles, including programs starting before, and ending after, 11.00 p.m.

Programs Accessible to the Hearing Impaired¹



Section 39²

(1) Providers of audiovisual media services shall strive to ensure that their services are gradually made accessible to the hearing impaired.

(2) Public linear media service providers and - in respect of their programs with the highest annual average audience share - SPI linear media service providers shall be required to ensure that all public service announcements, political advertisements, news programs - including traffic reports, sports news and weather forecasts - and political magazines, as well as programs for people with disabilities and programs on equal opportunities, cinematographic works, game shows and programs specified for the public service functions defined under Section 83 are accessible with Hungarian subtitle (for example through teletext) or with sign language interpretation.

(3) The obligation referred to in Subsection (2) shall not apply to programs made available in the original language, other than the programs broadcast under Subsection (2) of Section 99.

(4) The obligation referred to in Subsection (1) shall cover not less than six hours of daily transmission time in 2012, not less than eight hours of daily transmission time in 2013 and not less than ten hours of daily transmission time in 2014.

(5) Without prejudice to the integrity of the program, the media service provider shall be required to provide subtitles or sign language interpretation throughout the entire duration of a program that commenced with subtitles or with sign language interpretation, including any program series connected for reasons of dramaturgy.

(6) In media services, before programs with subtitles it shall be indicated that the program is available also in the form aforementioned on the related teletext services. Subtitles of programs must be accurate and shall be synchronized with the events taking place on the screen. It may feature a brief summary of the events taking place in the program if subtitling would be unable to keep up with those events for lack of time or lack of space.

(7) In the case of programs transmitted by way other than live broadcast, the subtitle should be accurate as it may reasonably be expected and shall be synchronized with the events taking place on the screen.

(8) Broadcasters shall transmit the teletext services and other subtitles provided by the audiovisual media service provider, synchronized with images and sounds, on each and every transmission systems, networks and broadcast transmission platforms.

¹ Established: by paragraph (1) Section 31 of Act LXVI of 2012. In force: as of 3. 07. 2012.

² Established by Section 4 of Act CVII of 2014, effective as of 1 January 2015.

Provisions Concerning Complementary Media Services

Section 40

Sections 14-18, Subsection (2) of Section 19 and Section 20 of the Press Act shall also apply to complementary media services.

Chapter II

Rights to Provide Media Services and to Publish Press Products

General Provisions

Section 41

(1)¹ Linear media services provided under this Act by a media service provider established in the territory of Hungary may be taken up and pursued following notification and registration by the Office of the Nemzeti Média- és Hírközlési Hatóság (*National Media and Infocommunications Authority*) (hereinafter referred to as "*Office*"), with the exception of State-owned analogue linear media services using limited resources that may be provided under contract awarded upon a tender procedure published by the Media Council, or under a provisional public contract concluded according to Section 65 of this Act.

(2)² On-demand and complementary media services provided under this Act by a media service provider established in the territory of Hungary, as well as press products published by a publisher established in the territory of Hungary shall be notified to the Office for registration within sixty days following the date of taking up the service or activity. Registration is not a precondition for taking up the service or activity.

(3)³ Any natural or legal person shall have the right - within the framework of this Act - to initiate the registration proceedings.

(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 acquired the rights therefor by way of a tender;
- d) radio media services, the providers of which acquired the rights therefor by way of a tender;
- e) on-demand audiovisual media services;
- f) on-demand radio media services;
- g) complementary media services;
- h) printed press products;
- i) online media products and news portals.

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

(5a)⁴ Where a publisher makes available its printed press products via the internet in the form of a digital copy that is fully compatible with the original printed press product, such internet content shall be considered a duplicate of the printed press product, and shall not be notified as an independent online press product.

¹ Amended by subparagraph j) Section 390 of Act CCI of 2011, Paragraph c) of Section 49 of Act XXXIX of 2014.

² Established by Section 4 of Act XIX of 2011, effective as of 6 April 2011. See Subsection (1) of Section 11 of Act XIX of 2011. Amended: by subparagraph k) Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.

³ Amended by Paragraph a) of Subsection (2) of Section 125 of Act CCLII of 2013.

⁴ Enacted by Section 39 of Act XXXIX of 2014, effective as of 30 September 2014.

(6) Of the data contained in the registers specified under Subsection (4), the name and contact information of media service providers, press product founders and publishers, as well as the names and titles of said media services and press products, shall be considered public information and accessible on the website of the Nemzeti Média- és Hírközlési Hatóság (*National Media and Infocommunications Authority*) (hereinafter referred to as "Authority"). For the purposes of monitoring the activities of media service providers and publishers of press products, the Authority shall process the natural identification data of media service providers and media product founders and publishers, if natural persons, until such data are deleted from the register.

(7) The rights to provide linear media services is not transferable.

Section 41/A¹

(1) The name or title of any press product and media service may not contain:

- a) the name of any person who held a leading role in the foundation, development or continuance of an authoritarian political regime of the 20th century; or
- b) an expression or the name of an organization that may be directly associated with an authoritarian political regime of the 20th century.

(2) In the registration procedure the Office shall verify compliance with the provisions set out in Subsection (1). In the registration procedure the Office or the court in court proceedings related to the registration procedure shall - in cases of doubt - obtain the opinion of the Magyar Tudományos Akadémia (*Hungarian Academy of Sciences*).

Rights to Provide Linear Media Services Subject to Notification

Section 42

(1) Registration of linear media services shall be requested by the future media service provider thereof. The notifier wishing to provide linear media services by using non State-owned limited analogue resources shall notify the Office of the following at least forty-five days prior to taking up the media service activity:

- a) particulars of the notifier:
 - aa) name,
 - ab) address (registered office), designation of site (sites) where the media service is provided,
 - ac) contact information (telephone number and electronic mail address),
 - ad) name and contact information (telephone number, mailing address and electronic mail address) of its chief executive officer, representative, and of the person in charge of contact with the Authority,
 - ae) registered number, and company registration number;
- b)² the notifier's valid charter document and its representative's signature registration certificate witnessed and executed by a notary public, save where Subsection (2a) applies, if the notifier is not a natural person
- c) basic details of the planned media service, such as:
 - ca) type (radio or audiovisual),
 - cb) profile (general or specialized),
 - cc) character (commercial, public service),
 - cd) permanent designation,
 - ce) name, address (registered office), contact information (telephone number and electronic mail address) of the electronic telecommunications service provider proposed to distribute it,
 - cf) estimated number of subscribers,
 - cg) type of electronic telecommunications network proposed for distribution,
 - ch) name of communities covered by distribution,
 - ci) media service transmission time, program scheduling and proposed structure of programming,

¹ Enacted: by paragraph (1) Section 2 of Act CLXVII of 2012. In force: as of 1. 01. 2013.

² Established: by paragraph (1) Section 38 of Act LXXXV of 2012. In force: as of 1. 02. 2013.

cj) the minimum daily, weekly and monthly transmission time devoted to public service programs and programs related to local community affairs, addressing local, daily issues,

ck) minimum transmission time intended for regular daily news programs,

*cl)*¹ proposed daily minimum transmission time in service of the needs of nationalities,

cm) complementary media services proposed,

cn) the media service signal, or the emblem of an audiovisual media service,

co) any expansion of the area of transmission, or, in the event of networking, the fact thereof

d) in case of satellite media services, the declaration of intent of the supplier of the satellite capacity intended to be used by the notifier having regard to the lease of the channel, also indicating the frequency, technical conditions and fee thereof;

*e)*² information concerning the size of the notifier_s - or any other person_s maintaining a qualifying holding in the notifier_s business enterprise - direct or indirect ownership stake in any business enterprise providing media services, or applying for media service rights, in the territory of Hungary

f) planned date of launching the media service.

(2) The notifier shall represent and warrant that in the event the registration, no grounds for his exclusion shall arise.

(2a)³ If the notifier is a company listed in the register of companies, and it has submitted the signature registration certificate of its representative, witnessed and executed by a notary public, or the signature specimen countersigned by an attorney to the court of registry, and the register of companies contains an indication thereof, the Office shall obtain such document by way of electronic means directly from the court of registry.

(3) Linear media services may not be supplied before registration. The Office shall adopt an official resolution for entering the linear media service into the register within forty-five days. The resolution shall also provide for the media service license fee the media service provider is required to pay for each linear media service.

(4) In the event of the Office_s failure to decide on registration within forty-five days, the notification shall be deemed as having been registered, with the proviso that the right-holder shall be informed within fifteen days of the fact of registration and the amount of the media service license fee payable.

(5)⁴ The Office shall, in the course of the registration procedure, examine whether Hungary is considered to have jurisdiction relating to the notified media service pursuant to this Act.

(6) The Office shall refuse to register a linear media service in the event that:

a) a conflict of interest under Section 43 exists vis-à-vis the notifier;

b) the notifier or any of its owners have overdue fees from previous media service activities;

c) this would be in violation of the provisions set out in Section 68 related to the prevention of media market concentration;

d) the notification failed to provide, upon receipt of notice for remedying deficiencies, the information prescribed under Subsection (1);

e) the designation of the notified media service is identical with - or is confusingly similar to - the designation of a linear media service that was registered earlier and shown as such in the register at the time the notification was submitted; or

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

(7) The Office shall withdraw the registration of the linear media service if:

a) registration should have to be refused;

b) the media service provider requested to be stricken from the register;

c) the media service provider has failed to settle said overdue fee payment within thirty days from the Authority_s written notice therefor;

d) the holder of the right to provide a media service fails to commence said service within six months from the date of registration thereof, or suspends an ongoing service for more than six months, except in the event that the media service provider adequately justifies such action;

¹ Amended: by subparagraph b) paragraph (1) Section 224 of Act CLXXIX of 2011. In force: as of 1. 01. 2012.

² Amended: by subparagraph c) Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.

³ Enacted: by paragraph (2) Section 38 of Act LXXXV of 2012. In force: as of 1. 02. 2013.

⁴ Amended: by subparagraph c) Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.

e) there is a binding court order in force relating to a trademark infringement stemming from the designation of the media service prohibiting the infringer from proceeding with such infringement; or

f) the Media Council has, in consequence of the media service provider's repeated severe violation of the law, decreed legal sanctions with due consideration of what is contained in Sections 185-187.

(8) The provisions of Subsections (1)-(7) shall also apply to linear media services provided via satellite involving the use of satellites which are not subject to Government control.

(9) Providers of linear media services shall notify the Office of any changes in their data on record within fifteen days of the effective date of such changes.

(10) In the event of the media service provider's failure to notify said data changes in due time the Office shall impose a financial penalty under Subparagraph *ba*) or *bb*) of Subsection (3) of Section 187.

(11) The Media Council's authorization granted in accordance with Section 64 of this Act by means of an official resolution is required for media service providers for connecting to the network and for expanding their area of transmission.

Conflict of Interest of Linear Media Service Providers

Section 43¹

(1) The provisions of Paragraphs *a*)-*c*) of Subsection (1) of Section 118 pertaining to the Authority's President, Vice-President, executive director and deputy executive director shall also apply to persons authorized to provide linear media services.

(2) Furthermore, the following persons shall have no entitlement to provide media services:

a) judges and public prosecutors

b) executive officers of administrative bodies, the Magyar Nemzeti Bank (*National Bank of Hungary*), the Gazdasági Versenyhivatal (*Hungarian Competition Authority*), the Magyar Nemzeti Vagyonkezelő Zrt. (*Hungarian State Holding Company*), and the president, vice-president, first secretary, executive employee and auditor of the Állami Számvevőszék (*State Audit Office*), and members of the Gazdasági Versenytanács (*Economic Competition Council*);

c) the Authority's President, Vice-President, executive director, deputy director, and any person in the Authority's employment

d) a close relative of the persons covered by Paragraphs *a*)-*b*) of Subsection (1) of Section 118 and Paragraphs *b*)-*c*) of this Subsection.

(3) The following organizations shall have no entitlement to provide media services:

a) political parties or business enterprises established by political parties

b) state and public administration bodies, except where otherwise provided for by the relevant legislation in the event of state of distress or state of emergency

c) any business entity in which the Hungarian State has a qualifying holding

d) the business entities in which any of the entities listed under Subsections (1)-(2) have a direct or indirect ownership interest, or have acquired the right to influence their decisions on the basis of an agreement or in any other way, or persons and organizations subject to any restriction on the acquisition of ownership interest.

(4) A business entity shall not be entitled to provide local linear media service in an area, at least twenty percent of which falls within the limits of a community, if any member or employee of the representative body, the mayor or lord mayor, deputy lord mayor or deputy mayor, or any close relative of these persons is a member of the board of directors, management or supervisory board of such business entity, or on the board of trustees, if a foundation or public foundation.

¹ Established by Subsection (11) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

(5)¹ Having regard to Paragraph *d*) of Subsection (3), any business entity in which a close relative of a lord mayor, deputy lord mayor, mayor or deputy mayor, the chairman or deputy chairman of the county assembly, or any local or county government representative has a direct or indirect ownership interest, or have acquired the right to influence their decisions on the basis of an agreement or in any other way, it shall have no entitlement to provide linear media services if at least twenty per cent of the area covered by the media service in question falls within the territory of the community affected.

Media Service License Fee

Section 44

(1) The person or entity entitled to provide a linear media service upon registration shall pay a media service license fee in the amount specified by the Office.

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

(3)² In the event of failure to pay the fee in due time, the Media Council may terminate the agreement subject to a fifteen-day notice period.

(4) Default in fee payment shall be construed a severe infringement.

(5) With respect to media services which may be provided under a public contract or broadcasting agreement, the media service license fee shall be the sum total of the basic media service license fee applicable to the given right to provide media services and the amount offered by the successful tenderer in a tender procedure. The Media Council shall specify the basic media service license fee in the tender notice.

(6) The basic media service license fee shall be proportionate to the area covered by the given media service, however, it shall be determined taking into account the household purchasing power indicator of the area in question, as well as the market share attained by groups of media service providers identified by the area covered, the media service type, mode of distribution, or other significant criteria.

(7) The media service license fee for linear media services that may be provided subject to registration shall be proportionate to the area covered by the given media service, however, it shall be determined taking into account the household purchasing power indicator of the area in question, as well as the market share attained by groups of media service providers identified by the area covered, the media service type, mode of distribution, or other significant criteria.

(8) In determining the media service license 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 on the given media service's area of transmission as well as to the availability of equipment suitable for reception of the given media service.

(9) Community media services shall be exempt from payment of the media service license fee.

(10) In the event of expansion of the area of transmission, media service license fees established for each area of transmission shall be added up and be payable jointly.

Notification of On-Demand Media Services

Section 45

¹ Established: by paragraph (1) Section 29 of Act LXVI of 2012. In force: as of 3. 07. 2012.

² Established: by paragraph (2) Section 29 of Act LXVI of 2012. In force: as of 3. 07. 2012.

(1)¹ Registration of on-demand media services shall be requested by the future media service provider thereof. The notification of on-demand media services submitted to the Office shall contain:

a) the notifier_s following particulars:

aa) name,

ab) address (registered office or fixed establishment), designation of site (sites) where the media service is provided,

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

ad) name and contact information (telephone number, mailing address and electronic mail address) of the media service provider_s executive officer, representative, and of the person in charge of contact with the Authority,

ae) registered number, and company registration number;

b) basic details of the planned media service, such as:

ba) type (radio or audiovisual),

bb) designation,

bc) profile (general or specialized);

c) planned date of launching the media service.

(2) The following shall not be entitled to provide on-demand media services: the President, Vice-President, executive director, deputy director of the Nemzeti Média- és Hírközlési Hatóság (*National Media and Infocommunications Authority*), the chairperson of the Board of Trustees of the Közzolgálati Közalapítvány (*Public Service Foundation*) and the chairperson and members of the Public Service Board, the executive director of the Fund, the President, Vice President and members of the Nemzeti Hírközlési és Informatikai Tanács (*National Council for Communications and Information Technology*), the executive director of the public service media service provider, the chairperson and members of the supervisory board thereof, members of the Media Council, and persons in the employment of any of the aforesaid organizations. The notifier shall represent and warrant that no conflict of interest under the Act exists, and no conflict of interest would arise subsequent to the registration of the said media service.

(3)² The Office shall register the on-demand media service within thirty days.

(4)³ The Office shall withdraw registration if:

a) a conflict of interest exists vis-à-vis the notifier,

b) the designation of the notified media service is identical with - or is confusingly similar to - the designation of an on-demand media service that was registered earlier and shown as such in the register at the time the notification was submitted.

(5) The on-demand media service shall be stricken from the register if:

a)⁴ registration should be withdrawn pursuant to Subsection (4),

b) the media service provider requested to be stricken from the register,

c) the holder of the right to provide a media service fails to start providing the service within a year from the date of registration thereof, or suspends an ongoing service for over a year, or

d) there is a binding court order in force relating to a trademark infringement stemming from the designation of the media service prohibiting the infringer from proceeding with such infringement.

(6) Providers of on-demand media services shall notify the Office of any changes in their data on record within fifteen days of the effective date of such changes.

(7)⁵ In the event of a change in the media service provider_s person, the media service provider having submitted the original notification shall requests to have the relevant records updated as appropriate. The procedure therefor shall be subject to the provisions of Subsections (1)-(4).

1 First sentence established by Subsection (1) of Section 5 of Act XIX of 2011, effective as 6 April 2011. See Subsection (1) of Section 11 of Act XIX of 2011.

2 Established by Subsection (2) of Section 5 of Act XIX of 2011, effective as 6 April 2011. See Subsection (1) of Section 11 of Act XIX of 2011.

3 Established by Subsection (2) of Section 5 of Act XIX of 2011, effective as 6 April 2011. See Subsection (1) of Section 11 of Act XIX of 2011.

4 Established by Subsection (3) of Section 5 of Act XIX of 2011, effective as 6 April 2011. See Subsection (1) of Section 11 of Act XIX of 2011.

5 Established: by paragraph (3) Section 29 of Act LXVI of 2012. In force: as of 3. 07. 2012.

(8)¹ In the event of any violation of the provisions on registration on the media service provider part, the Office shall have powers to impose a financial penalty of up to one million forints, taking account of the principles set out in Subsection (2) of Section 185.

Notification of Press Products

Section 46

(1)² 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 business entities, they shall enter into an agreement for governing their relationship, as well as their responsibilities and rights arising out of or in connection with the said press product.

(2)³ The notification for the registration of a press product shall contain:

a) the notifier's following particulars:

aa) name,

ab) home address (registered office or permanent establishment),

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

ad) name and contact information (telephone number, mailing address and electronic mail address) of its representative, and of the person in charge of contact with the Authority,

ae) registered number, company registration number;

b) title of the notified press product;

c) in the case of online press products and news portals, and digital copies of printed press products accessible through the internet, the internet address thereof;

d) in the event that the founder and publisher are different persons or business entities, the particulars of both provided for in Paragraph a).

(2a)⁴ Unless otherwise provided for by law, the notification for the registration of a press product - if the notifier is other than a natural person - shall have enclosed a copy of the document verifying entitlement for representation, such as a signature registration certificate, power of attorney.

(3) The following shall not be entitled to found and publish a press product: the President, Vice-President, executive director, deputy director of the Nemzeti Média- és Hírközlési Hatóság (*National Media and Infocommunications Authority*), the chairperson of the Board of Trustees of the Közzolgálati Közalapítvány (*Public Service Foundation*) and the chairperson and members of the Public Service Board, the executive director of the Fund, the President, Vice President and members of the Nemzeti Hírközlési és Informatikai Tanács (*National Council for Communications and Information Technology*), members of the Media Council, not including the founding or publishing of press products featuring academic accomplishments or scientific knowledge. The notifier shall represent and warrant that no conflict of interest under the Act exists, and no conflict of interest would arise subsequent to registration.

(4)⁵ The Office shall register the press product within fifteen days.

(5)⁶ The Office shall withdraw registration if:

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

b)⁷ the name of the notified press product is identical with - or is confusingly similar to - the name of a press product that was registered earlier and shown as such in the register at the time the notification was submitted, or if the name of the press product fails to comply with the requirements set out in Subsection (1) of Section 41/A.

1 Enacted by Subsection (4) of Section 5 of Act XIX of 2011, effective as of 6 April 2011. See Subsection (1) of Section 11 of Act XIX of 2011.

2 First sentence established by Subsection (1) of Section 6 of Act XIX of 2011. Amended by Paragraph d) of Section 49 of Act XXXIX of 2014.

3 Established by Subsection (1) of Section 40 of Act XXXIX of 2014, effective as of 30 September 2014.

4 Enacted by Subsection (2) of Section 40 of Act XXXIX of 2014, effective as of 30 September 2014.

5 Established by Subsection (2) of Section 6 of Act XIX of 2011, effective as of 6 April 2011. See Subsection (1) of Section 11 of Act XIX of 2011.

6 Established by Subsection (2) of Section 6 of Act XIX of 2011, effective as of 6 April 2011. See Subsection (1) of Section 11 of Act XIX of 2011.

7 Established: by paragraph (2) Section 2 of Act CLXVII of 2012. In force: as of 1. 01. 2013.

(5a)¹ Paragraph *b*) of Subsection (5) shall not apply to any press product that fails to meet the obligation to provide supplemental information provided for in Subsection (2) of Section 208.

(6) The press product shall be stricken from the register if:

a)² registration should be withdrawn pursuant to Subsection (5),

b) the founder or - if the founder and publisher are different business entities, with the founder's approval the publisher - requested to be stricken from the register,

c)³ the holder of the right to publish a press product fails to start publication within two years from the date of registration thereof, or suspends ongoing publication for over five years,

d)⁴ there is a binding court order in force relating to a trademark infringement stemming from the name of the press product prohibiting the infringer from proceeding with such infringement, or

e)⁵ the founder - a legal person or unincorporated organization - ceased to exist by way of dissolution without succession at least fifteen days previously.

(7)⁶ The publisher and founder of a press product shall notify the Office of any changes in their data on record within fifteen days of the effective date of such changes. The title of a press product contained in the official register may not be changed.

(8) In the event of a change in the publisher's person, the publisher of record shall request to have the relevant records updated as appropriate. In the absence thereof, the founder may initiate such updating as well. The procedure therefor shall be governed by the provisions of Subsections (1)-(5).

(8a)⁷ In the event of any violation of the provisions on registration on the founder's or publisher's part, the Office shall have powers to impose a financial penalty of up to one million forints, taking account of the principles set out in Subsection (2) of Section 185.

(9) Press products and - unless otherwise provided for by law - other publications shall display 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 in charge of publishing;

b)-*c*)⁸

d) the name of the person in charge of editing.

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

(11) Legislation may also prescribe an abbreviated imprint, the obligation of displaying certain specific data, or other special rules.

(12) A legal deposit of printed press products and other publications shall be provided free of charge to bodies designated by specific other legislation for academic and administrative purposes. The legal deposit shall remain the property of the body entitled therefor. The detailed provisions for making legal deposits shall be decreed by the government.

(13) A legal deposit of printed press products and other publications shall be made available free of charge to the bodies designated by specific other legislation for the preservation of cultural assets, national bibliographical referencing, and public library provision. The legal deposit shall remain the property of the body entitled therefor.

(14) A legal deposit for preservation purposes shall only be removed from the records of public collection in the event that it was destroyed or has become damaged beyond repair.

Notification of Complementary Media Services

Section 47

The registration of complementary media services shall be governed by the regulations applicable to the registration of on-demand media services.

¹ Enacted by Subsection (3) of Section 40 of Act XXXIX of 2014, effective as of 30 September 2014.

² Established by Subsection (3) of Section 6 of Act XIX of 2011, effective as of 6 April 2011. See Subsection (1) of Section 11 of Act XIX of 2011.

³ Amended by Paragraph *e*) of Section 49 of Act XXXIX of 2014.

⁴ Amended by Paragraph *f*) of Section 49 of Act XXXIX of 2014.

⁵ Enacted by Subsection (4) of Section 40 of Act XXXIX of 2014, effective as of 30 September 2014.

⁶ Established by Subsection (5) of Section 40 of Act XXXIX of 2014, effective as of 30 September 2014.

⁷ Enacted by Subsection (4) of Section 6 of Act XIX of 2011, effective as of 6 April 2011. See Subsection (1) of Section 11 of Act XIX of 2011.

⁸ Repealed by Subsection (13) of Section 64 of Act CVII of 2011, effective as of 3 August 2011.

Chapter III

Rights to Provide Linear Media Service by way of Tender

General Provisions

Section 48

(1)¹ Unless otherwise provided for by this Act, analogue linear media services using limited State-owned resources shall be provided under public contract awarded upon a tender procedure published and conducted by the Media Council.

(2)² Procedures for awarding the right to provide linear media services using limited State-owned resources by way of tender (hereinafter referred to as "_tender procedure") shall be governed by the APA, subject to the exceptions set out in this Act.

(3) Subject to the exceptions set out in this Act, the Media Council shall be responsible for making arrangements relating to the tender procedures.

(4)³

(5)⁴ Rights to provide analogue linear media services using limited State-owned resources shall be in effect for up to seven years in the case of radio, and up to ten years in the case of audiovisual media services, which may be renewed once upon expiry for a maximum period of five years without a tender procedure, upon the media service provider_s request, with the exception that audiovisual media service agreements shall expire on the date set out in Subsection (1) of Section 38 of the DTA. The request for renewal shall be notified to the Media Council fourteen months prior to expiry. In the event of failure to meet this deadline the renewal shall be denied. The Media Council shall decide the request for renewal at least four months prior to expiry, and at the latest two months prior to expiry.

(6)⁵

(7)⁶ The right shall not be renewed if:

a) according to the Media Council_s binding resolution, the media service provider repeatedly or severely breached the contract or violated the provisions of this Act,

b) the media service provider was sanctioned for any prior breach of contract according to Paragraph b) of Subsection (1) of Section 112 of Act I of 1996 on Radio and Television Broadcasting, or

c)⁷ the media service provider has any unpaid media service license fees at the time the request is submitted or when assessed.

(8)⁸ The Media Council shall determine the principles of the tender procedure for media service facilities to be provided to small communities with a view to the appropriate application of the provisions of Chapter III and the unique characteristics deriving from the nature of media service possibilities, and shall publish such principles on its website. Authorization for small community media service facilities may not awarded by means of tender and may not be operated commercially.

(9) Upon the Media Council_s request, the Office shall compile the list of media service facilities.

Preparation of Tender Procedures for Media Services

1 Established: by paragraph (4) Section 29 of Act LXVI of 2012. In force: as of 3. 07. 2012.

2 Amended by Paragraph g) of Section 49 of Act XXXIX of 2014.

3 Repealed by Paragraph b) of Subsection (2) of Section 50 of Act XXXIX of 2014, effective as of 30 September 2014.

4 Established by Section 41 of Act XXXIX of 2014, effective as of 30 September 2014.

5 Repealed by Subsection (13) of Section 64 of Act CVII of 2011, effective as of 3 August 2011.

6 Established: by paragraph (6) Section 29 of Act LXVI of 2012. In force: as of 3. 07. 2012.

7 Amended by Paragraph h) of Section 49 of Act XXXIX of 2014.

8 Established by Subsection (14) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

Section 49

(1) The Media Council shall, with a view to preparing tender procedures for media services, request the Office to draw up frequency plans.

(2) In the request referred to in Subsection (1) the Media Council shall define the theoretical considerations required for drawing up a broadcast frequency plan, such as in particular:

- a) the objective of frequency use;
- b) the preferences to be applied in frequency planning;
- c) the frequency planning timeline.

(3) The frequency plan developed shall contain:

- a) nominal sites of the transmitters, and other technical requirements of installation;
- b) the area envisaged to be covered by the transmitters;
- c) the frequency band pursuant to International Radio Regulation marks.

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

(5) The Office shall make public the frequency plan for at least fifteen days prior to Media Council approval. The Office shall publish an announcement concerning said publication and its location by way of public notice and on the Media Council_s website at least one week prior to the starting date thereof. During the period of publishing the frequency plans, and within five days thereafter, any person may submit a written comment - addressed to the Media Council - with respect to the frequency plans.

(6) The Media Council shall decide on the approval of the frequency plan and preparations for a draft tender notice within forty-five days from the last day of the public display thereof.

(7) The frequency plans and the principles of planning are public, and are available for inspection at the Office.

(8) With a view to planning for media service facilities the Authority may supply information in exchange for a fee and upon the request of clients, provided that the Media Council grants prior approval for the planning of media service facilities with respect to the area of transmission specified in the request and with due consideration of media market and media policy criteria. In respect of media service facilities thus planned the relevant provisions of this Act on tender procedures shall henceforth apply.

The Draft Tender Notice

Section 50

(1) The Media Council shall, in the interest of preparation of a tender notice, draw up a draft tender notice on tender conditions. The Media Council shall publish the draft tender notice, including a statement of reasons, by way of public notice and on its website.

(2) Between the twentieth and thirtieth day following the publication of the draft tender notice the Media Council shall hold a public hearing (hereinafter referred to as _hearing").

(3) The Office shall publish, by way of public notice and on the Media Council_s website, an announcement on the time and venue of the hearing, at least ten days in advance.

(4) In connection with the draft tender notice anyone may make a comment during the hearing verbally or in writing, or within five days therefrom, and anyone may submit a comment or address a question to the Office in writing.

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

(6) The Media Council shall adopt a decision on the finalization of the draft tender notice within forty-five days from the hearing, taking into consideration the comments received and recommendations made at the public hearing where possible.

The Tender Procedure

Section 51

(1) Subject to the exceptions set out in this Act, the tender procedure shall *ex officio* commence upon publication of the tender notice.

(2) The administrative time limit for the tender procedure shall be eighty-five days. In addition to what is contained in the APA, the time limit shall not cover the time period from the day the tender notice is published to the submission of tenders. In justified cases, the time limit may be extended on one occasion, by up to twenty days.

Tender Notice

Section 52

(1) The Media Council shall publish a tender notice for the utilization of media service facilities.

(2) The tender notice shall include:

- a) the particulars of the media service facilities under Subsection (3) of Section 49;
- b) the objective of the tender procedure;
- c) the fundamental rules governing the procedure;
- d) the amount of the tender fee and the terms and conditions of payment;
- e) the minimum amount of the media service license fee (basic media service license fee), below which rights for providing media services cannot be awarded, with the exception of community media services;
- f) formal requirements and the deadline for the submission of tenders;
- g) the mandatory layout of tenders;
- h) the evaluation criteria and the aspects to be taken into consideration in the evaluation, the categories for evaluating tenders, the quantified evaluation framework allocated to specific evaluation categories, as well as the rules of evaluation serving as the basis for the Media Council's decision on awarding the contract;
- i) the starting date for the provision of media services;
- j) the period of validity of the rights for providing media services;
- k) the formal requirements of tenders;
- l) the formal and substantive validity criteria of tenders;
- m) other conditions imposed by the Media Council.

(3) In addition to what is contained in Subsection (2), the tender notice may also include the following conditions, thus, in particular:

- a) commitment to a binding offer and the term thereof regarding the submitted tenders;
- b)¹ the ratio of programs specified for the public service functions defined under Section 83;
- c) the ratio of programs on subjects related to local community affairs, and local, daily issues;
- d)² the predefined extent of service to nationalities and other minority needs;
- e) the obligation to provide news services;
- f) the conditions for networking and expanding the area of transmission;
- g) the conditions for providing complementary and value added media services.

(4) The Media Council shall publish the tender notice by way of public notice and on its website.

(5) The tender notice shall be drawn up so as to ensure 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.

¹ Amended by Subsection (75) of Section 64 of Act CVII of 2011.

² Amended: by subparagraph c) paragraph (1) Section 224 of Act CLXXIX of 2011. In force: as of 1. 01. 2012.

Amendment and Withdrawal of Tender Notice

Section 53

(1) The Media Council shall be entitled to revise the tender notice along the principles of an objective, transparent and non-discriminative procedure.

(2) The tender notice may be revised until the fifteenth day prior to the submission of the tenders.

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

(4) In the event of any amendment of the tender notice, the Media Council shall extend the deadline for the submission of tenders, so as to ensure that the period specified in Subsection (5) of Section 52 for the submission of tenders remains available from the date of the publication of the tender notice.

(5) The Media Council may withdraw the tender notice before the fifteenth day prior to the deadline for the submission of tenders, taking into account media market and media policy considerations. The Media Council shall publish this decision in the same manner as the tender notice, and give reasons for its decision.

The Tender Fee

Section 54¹

Tenderers wishing to submit a tender shall be charged a tender fee. The tender fee shall be five percent of the basic media service license fee published. Eighty percent of the tender fee shall be included in the media service license fee.

The Tenderer

Section 55

(1) The following business entities may participate in the tender procedure:

a) business entities with no outstanding customs or social security contributions overdue for longer than sixty days or overdue taxes registered by the central tax authority, or any overdue payment obligation to extra-budgetary funds, except if the creditor has agreed in writing to defer payment of the debt;

b) business entities which are not under liquidation, bankruptcy or other winding-up proceedings; and

c) business entities that were not found guilty - by an administrative decision - in any serious breach of obligations stemming from a broadcasting or a public contract awarded on the basis of a previous tender procedure concluded within the preceding five years, or the broadcasting or public contract of which has not been terminated,

*d)*² business entities that have no outstanding debt owed to the Media Council.

(2)³ Any business entity with a qualifying holding in the tenderer and any business entity that is controlled by the tenderer shall also comply with the requirements laid down under Paragraphs *a)*-*d)* of Subsection (1).

¹ Amended by Subsection (75) of Section 64 of Act CVII of 2011.

² Enacted by Subsection (15) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

³ Amended by Subsection (16) of Section 64 of Act CVII of 2011.

(3)¹ The persons wishing to participate in the tender procedure must be able to comply with the provisions on conflict of interest defined by law. In tender procedures for the right to provide nation-wide analogue media services, the tenderer, or any business entity with a qualifying holding in the tenderer to whom the Media Council has awarded a contract in another tender procedure in progress shall be considered ineligible. In tender procedures for the right to provide regional or local analogue media services, the tenderer, or any business entity with a qualifying holding in the tenderer to whom the Media Council has awarded a contract in another pending tender procedure published for the area of transmission or regional or local media services shall be considered ineligible, except if the proposed area of transmission of those rights for providing media services overlap up to twenty per cent at most.

(4)² If the tenderer, or any business entity with a qualifying holding in the tenderer and any business entity that is controlled by the tenderer has any right to provide media services within the scope of this Act which excludes acquisition of the right offered in the tender notice, such tenderer may submit a tender only if having installed a legally binding clause in his tender to forfeit such right to provide media services if declared the successful tenderer upon the award procedure, from the time of conclusion of the contract awarded, or to waive any claim thereof, or to undertake the commitment for eliminating any circumstance that may exist in violation of the said restrictions through other means, effective as of the same day.

(5) Business entities with a qualifying holding in one another, or a business entity in which the other business entity holds a qualifying holding, or in which the same third party has a qualifying holding shall not be permitted to participate in the tender procedure simultaneously.

The Tender

Section 56

The tender shall contain:

a) the following particulars of the tenderer:

aa) name,

ab)³ home address or registered office,

ac) registered number, and company registration number,

ad) contact information (telephone number and electronic mail address),

ae) name and contact details of its executive officers and representatives (telephone numbers, mailing address and electronic mail address), as well as the specimen signature certified by a notary public or countersigned by an attorney;

b) the tenderer's valid charter document;

c)⁴ the tenderer's statement on the size of the tenderer's - or any other person's maintaining a qualifying holding in the tenderer - direct or indirect ownership stake in any business entity providing media services in the territory of Hungary, or applying for media service rights in Hungary;

d) the basic particulars of the proposed media services:

da) profile (general or specialized),

db) area of transmission,

dc) the proposed free-to-air broadcasting facility,

de) character (commercial, public service),

df) transmission time and scheduling of the service,

dg)⁵ complementary media services proposed,

dh) permanent name and signal of the media service,

di) any expansion of the area of transmission, or, in the event of networking, the fact thereof,

dj) the planned program structure,

1 Established: by paragraph (7) Section 29 of Act LXVI of 2012. In force: as of 3. 07. 2012.

2 Established: by paragraph (7) Section 29 of Act LXVI of 2012. In force: as of 3. 07. 2012.

3 Amended by Subsection (75) of Section 64 of Act CVII of 2011.

4 Amended: by subparagraph m) Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.

5 Established: by paragraph (8) Section 29 of Act LXVI of 2012. In force: as of 3. 07. 2012.

- dk*)¹ the minimum daily, weekly and monthly transmission time devoted to public service programs and programs related to local community affairs, addressing local, daily issues,
dl)² minimum daily, weekly and monthly transmission time intended for news programs,
dm)³ proposed daily minimum transmission time in service of the needs of nationalities and other minorities;
e) with the exception of community media services, an offer for the media service license fee;
f) the media service provider's business and financial plan;
g)⁴ a bank certificate to verify that the tenderer has sufficient funds set aside to cover the costs of the proposed media services for at least the first three months of operation, without any advertising revenues, in a special bank account;
h) the tenderer's statement in evidence of not being subject to any grounds for disqualification under this Act, and that the acceptance of another pending tender of his will not create grounds for his disqualification;
i) other data, documents and statements indicated in the tender notice.

Evaluation and Formal Validity of Tenders

Section 57

(1) The Media Council shall examine whether the tenderer is in compliance with formal and substantive requirements.

(2) Tenders shall be deemed formally invalid if:

- a*) the tenderer fails to comply with the personnel and/or participation requirements set out in Section 55, or the conflict of interest requirements under this Act;
b)⁵ the tender is not submitted by the deadline, or at the place, in the number of copies or in the mode defined in the tender notice;
c) the tender fee was not paid on time;
d)⁶ the tender does not comply with the formal validity requirements defined in the tender notice;
e)⁷ the tender does not, or does not adequately contain the data listed in Section 56.

(3)⁸ Remedying deficiencies pertaining to formal validity requirements shall not be permitted for the items under Paragraphs *a*)-*d*) of Subsection (2) of Section 57. Remedying deficiencies pertaining to the formal validity requirements provided for in Paragraph *e*) of Subsection (2) of Section 57 shall only be permitted for the items under Paragraphs *b*), *c*), *dc*), *df*-*dm*), *f*)-*i*) of Section 56.

(4) Remedying deficiencies shall be carried out within fifteen days of delivery. If the tenderer adequately rectifies deficiencies within the time limit specified in the notice for remedying deficiencies, the tender shall be construed as if it had been correct and complete when submitted the first time. The time limit prescribed for remedying deficiencies shall apply with prejudice; no application for extension shall be accepted after its expiry. In regard to those elements of the tender that are subject to evaluation pursuant to the tender notice, remedying deficiencies is not permitted.

(5) Fifty percent of the tender fee shall be refunded for tenders declared formally invalid.

Tender Registration and Formally Invalid Tenders

Section 58

1 Amended by Subsection (75) of Section 64 of Act CVII of 2011.
2 Established: by paragraph (9) Section 29 of Act LXVI of 2012. In force: as of 3. 07. 2012.
3 Amended: by subparagraph *d*) paragraph (1) Section 224 of Act CLXXIX of 2011. In force: as of 1. 01. 2012.
4 Established: by paragraph (10) Section 29 of Act LXVI of 2012. In force: as of 3. 07. 2012.
5 Amended by Paragraph *b*) of Subsection (1) of Section 50 of Act XXXIX of 2014.
6 Amended by Paragraph *i*) of Section 49 of Act XXXIX of 2014.
7 Established by Subsection (17) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.
8 Established by Section 42 of Act XXXIX of 2014, effective as of 30 September 2014.

(1) The Media Council shall maintain an official register and admit tenderers having submitted a formally valid tender within forty-five days following the deadline for the submission of tenders (hereinafter referred to as "tender register"). The Office shall notify tenderers whose tender had been accepted concerning their admission into the tender register, and shall publish the list of tenderers admitted to the tender register on the Media Council's website.

(2)¹ In the case of tenders that were declared formally invalid pursuant to Subsection (2) of Section 57, the Media Council shall refuse to admit such tenderers into the tender register by way of a ruling. The ruling on the refusal of registration terminates the tenderer's client status in the procedure. A petition for review of the ruling on the refusal of registration may be submitted - alleging infringement - within eight days of delivery of the ruling to the Fővárosi Közigazgatási és Munkaügyi Bíróság (*Budapest Court of Public Administration and Labor*). The court shall adopt a decision in non-contentious proceeding, upon hearing the parties if necessary, within fifteen days. The decision of the Fővárosi Közigazgatási és Munkaügyi Bíróság may not be appealed. If a request is submitted for non-contentious proceedings the Media Council shall suspend the tender procedure until a final court ruling is rendered. The ruling adopted by the Media Council for suspending the proceedings may not be contested separately.

(3) If the Media Council discovers any grounds for formal invalidity following admission into the tender register, in the course of the tender's evaluation, it shall not adopt a separate ruling for declaring the tender formally invalid, as such invalidity shall be declared in the decision concluding the tender procedure.

Substantive Validity of Tenders

Section 59

(1) In the process of examining the substantive validity of tenders, the Media Council shall evaluate and check the tender submitted by a registered tenderer as a whole and also in respect of each tender component.

(2) If the tender is deficient in terms of content, the Media Council shall call on the tenderer to remedy the deficiencies. Subsection (4) of Section 57 shall also apply to remedying deficiencies. If the tender is lacking clarity, the Media Council may, without prejudice to the principle of equal treatment, request the tenderer to clarify. The tenderer shall have fifteen days for clarification from the date of delivery of the request. Clarification may not result in any change in financial or other commitments pertaining to value or material statement, it may only apply to the interpretation thereof.

(3) Tenders shall be considered substantively invalid if:

a) they contain - among the commitments forming part of the evaluation criteria - incomprehensible, contradicting or clearly unfeasible commitments and conditions, that have the capacity to impede the evaluation of the tender;

b) the tender contains commitments which - in the Media Council's opinion - are impracticable, excessive or insufficient or manifestly disproportionate, or it contains commitments and/or conditions which are clearly irrational or unfounded, and which contradict the facts and data at the Media Council's disposal, and thus render evaluation in accordance with the criteria defined in the tender notice unfeasible;

c) due to their unfounded nature, the tenders are unsuitable for achieving or implementing the objectives defined in this Act or in the tender notice; or

d) they do not comply with the substantive requirements prescribed in the tender notice.

(4) The Media Council shall not adopt a separate ruling for declaring the substantive invalidity of the tender, as such invalidity shall be declared in the decision concluding the tender procedure.

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

Evaluation of Tenders

¹ Established: by paragraph (1) Section 69 of Act CCXI of 2012. In force: as of 1. 01. 2013.

Section 60

(1)¹ Tenders shall be evaluated on the basis of the principles and criteria defined in the tender notice. Evaluation criteria shall be based on quantitative or other assessable factors, and comply with the subject of the tender or the material terms and conditions of the public contract.

(2) The Media Council may, in connection with a tender component related to the evaluation criteria, determine, in the tender notice, a requirement compared to which an offer that is less favorable cannot be made.

(3) Evaluation principles shall be transparent, non-discriminative and proportionate.

(4) Tenders may not be evaluated in a way that differs from what is set out in the tender notice.

Termination of the Tender Procedure

Section 61

(1) The Media Council may terminate the tender procedure by way of a ruling if:

a) no tender is submitted for the tender notice,

b) any circumstance or condition arising in the course of the tender procedure renders the tender procedure obsolete, thus in particular if the national or international business environment changes substantially following publication of the tender notice, or if the economic, legal, frequency management or media market circumstances or conditions prevailing at the time of publication of the tender notice change considerably,

c) the Media Council is of the opinion that the media policy aspects or the fundamental principles or objectives defined under this Act or in the tender notice cannot be ensured by executing the tender procedure, or

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

(2)² The Media Council shall publish its decision referred to in Subsection (1) in the same medium and using the same means as for the tender notice.

Results of the Tender Procedure, Announcement of the Results and Public Availability of Tenders

Section 62

(1) The Media Council shall, by way of an official resolution:

a) declare the tender procedure successful or unsuccessful, and

b) announce the successful tenderer if the procedure is declared successful.

(2) The tender procedure shall be declared unsuccessful if all submitted tenders are found invalid in terms of form or content.

(3)³ A tenderer may be declared the successful tenderer if having satisfied the participation requirements laid down in this Act and in the tender notice throughout the procedure, from the date of the submission of the tender. In connection with local media services, if there is only one tenderer that satisfies the legal and tender requirements, the Media Council shall declare the tenderer successful in accordance with Paragraph *b)* of Subsection (1).

(4)⁴ The Media Council shall publish its decision referred to in Subsection (1) in the same medium and using the same means as for the tender notice.

¹ Established: by paragraph (11) Section 29 of Act LXVI of 2012. In force: as of 3. 07. 2012.

² Amended by Subsection (75) of Section 64 of Act CVII of 2011.

³ Established under Subsection (19) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

⁴ Amended by Subsection (75) of Section 64 of Act CVII of 2011.

(5)¹ Judicial review of the Media Council's resolution under Subsection (1) may be requested by the client, or any other party to the proceeding concerning provisions expressly pertaining to him, from the Fővárosi Közigazgatási és Munkaügyi Bíróság (*Budapest Court of Public Administration and Labor*) within fifteen days of the time of delivery of the resolution alleging infringement.

(6)² The Media Council shall forward the claim - together with the documents and representations of the case - to the Fővárosi Közigazgatási és Munkaügyi Bíróság within fifteen days of receipt thereof. The court shall hear the petition for judicial review and adopt a decision within sixty days from the date the Media Council has dispatched the petition to the court, and shall ensure that its decision is given in writing before the date of delivery. A motion for retrial or an appeal may not be submitted against the decision of the court. A petition for review may be lodged within fifteen days from the date of delivery of the resolution, with the proviso that the petition for review shall be delivered to the Fővárosi Közigazgatási és Munkaügyi Bíróság within the deadline prescribed for submission of the petition for review. That deadline shall apply with prejudice; no application for continuation shall be accepted upon missing the deadline. The Kúria (*Curia*) shall adopt a decision concerning the petition within sixty days, and shall ensure that its decision is given in writing within that time. The Fővárosi Közigazgatási és Munkaügyi Bíróság, and the Kúria shall deliver its decision in priority proceedings.

(7)³ Until the conclusion of the tender procedure, tenders shall be treated as secrets protected by law under Subsection (2) of Section 153. The Media Council shall process the tenders separately among the documents of the case, confidentially. The Media Council may not disclose any information contained in the tenders to third parties prior to the conclusion of the contract.

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

Public Contract

Section 63

(1) Simultaneously with having the resolution adopted under Paragraph *b*) of Subsection (1) of Section 62 delivered to the successful tenderer, the Media Council shall, of its own motion, open proceedings for the purpose of executing a public contract with the successful tenderer. The administrative time limit for such proceedings shall be forty-five days.

(2) If the successful tenderer does not participate in the proceedings under Subsection (1), or if engaged in any conduct aiming to prevent the conclusion of the public contract, the public contract may not be concluded beyond the administrative time limit referred to in Subsection (1), in which case the Media Council shall terminate the procedure on the forty-fifth day from the date of the opening of the procedure. No application for extension shall be accepted in the procedure.

(3)⁴

(4)⁵ If a procedure of the Fővárosi Közigazgatási és Munkaügyi Bíróság (*Budapest Court of Public Administration and Labor*) has been initiated according to Subsection (5) of Section 62, the public contract may not be concluded before the final decision of the Közigazgatási és Munkaügyi Bíróság. The duration of the judicial review by the Fővárosi Közigazgatási és Munkaügyi Bíróság shall not be included in the administrative time limit of the original proceedings.

(5) The Media Council may impose a financial penalty under Section 187 if the successful tenderer withdraws its tender or fails to enter into the public contract.

(6) The Media Council may, in addition to imposing a financial penalty, order the successful tenderer to bear and pay all costs arising from the withdrawal of the tender or from obstructing the conclusion of the public contract.

(7) The public contract shall contain provisions for the production, safekeeping, availability and disclosure of information required for monitoring the media service provider's compliance with contractual obligations.

1 Established: by paragraph (2) Section 69 of Act CCXI of 2012. In force: as of 1. 01. 2013.

2 Established: by paragraph (2) Section 69 of Act CCXI of 2012. In force: as of 1. 01. 2013.

3 Established: by paragraph (12) Section 29 of Act LXVI of 2012. In force: as of 3. 07. 2012.

4 Repealed by Subsection (20) of Section 64 of Act CVII of 2011, effective as of 3 August 2011.

5 Established: by paragraph (3) Section 69 of Act CCXI of 2012. In force: as of 1. 01. 2013.

(8) If the media service is not provided by the deadline specified in the public contract - due to reasons within the successful tenderer's control - the Media Council shall have powers to terminate the public contract with immediate effect in addition to applying the legal consequences set out in the public contract.

(9) Media service providers shall pay the media service license fee defined in the public contract in advance on a quarterly basis. When the right to provide media services is awarded, the media service license fee shall be paid in advance for the following half year.

(10) If the media service provider falls behind or defaults on the payment of any portion of the media service license fee, the Media Council shall have powers to terminate the public contract with a fifteen-day notice period in addition to applying the legal consequences set out in the public contract.

(11)¹ The consequences of any breach of contract shall be defined in the public contract.

(12)² The media service provider shall be entitled and required to broadcast the program as fixed in the public contract on the network it operates, using its own equipment and means or using the services of an electronic communications service provider (broadcaster). No authorization for providing telecommunications services is required for the media service provider's broadcasting or distribution activity using own equipment; this, however, shall not affect the obligations to acquire other permits prescribed in other legislation.

(13) The original applicant referred to in Subsection (8) of Section 49 may demand reimbursement for its justified expenses incurred in connection with the disclosure of data and planning from the successful tenderer.

(14)³ The media service provider shall notify the Media Council of any changes in its ownership structure or in its particulars shown in the public contract within five days of the effective date of such changes.

Networking, Expansion of the Area of Transmission, Contract Amendment

Section 64

(1) The Media Council shall decide on networking based on the joint request of those connecting to the network through administrative proceedings. If the request is granted, the Media Council shall amend the public contracts of the media service providers affected.

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

(3) Networking 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 limit of four hours;

b)⁴ either of the media service providers has overdue media service license fees owed to the Media Council;

c)⁵ as a result of networking, either of the media service providers would fail to comply with the conditions laid down in Section 71;

d) the area of transmission of the network media service provider and the media service provider connecting to the network overlaps in excess of twenty percent;

e) as a result of networking, the media service provider would significantly deviate from its original commitment made in the tender.

(4) The Media Council shall decide in administrative proceedings opened upon request for the expansion of the area of transmission. If the request is granted, the Media Council shall amend the public contract of the media service provider affected.

¹ Amended by Subsection (75) of Section 64 of Act CVII of 2011.

² Established: by paragraph (13) Section 29 of Act LXVI of 2012. In force: as of 3. 07. 2012.

³ Enacted by Subsection (21) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

⁴ Established by Subsection (22) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

⁵ Established by Subsection (22) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

(5) Expansion of an area of transmission shall be granted on condition that the areas of transmission of the media service provider_s rights of similar nature are situated not more than forty kilometers apart.

(6) Expansion of the area of transmission shall not be permitted:

a) if the media service provider has overdue media service license fees owed to the Media Council;

b) if, as a result of expansion of the area of transmission, the media service provider would fail to comply with the conditions laid down in Section 71.

(7) The expansion of an area of transmission shall entail no additional rights. The validity period of the expanded area of transmission right shall remain unchanged, with the full right remaining in force until the expiry of the underlying right as extended. The media service provider shall broadcast the same program over the entire area of transmission throughout the entire transmission time.

(8) If the media service provider_s area of transmission increases from local to regional or from regional to national as a result of an increase in the population reached with its broadcast, or due to networking or expansion of the area of transmission, the Media Council shall amend the public contract on condition that the media service provider satisfies the requirements applicable to the media service 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 having regard to essential public interest - offer, in place of the existing right for providing media services, another right contained in the register of media service facilities under similar terms and conditions in regard to the frequency band and the frequency, without a tender procedure. Such amendment shall not affect the term of the rights for providing media services.

Temporary Media Services

Section 65

(1)¹ Upon request, the Media Council may - taking into account media market and media policy considerations - conclude provisional public contracts for a period of up to thirty days for the use of local media service facilities:

a) the frequency plan of which has been published by the Media Council according to Subsection (5) of Section 49, however, it has not yet concluded a public contract;

b)²

c) in connection with which the Authority verifies that providing the media services may continue without causing any interference to others and without the violation of international regulations.

(2)³ The application shall contain:

a) the name, address, registered office, phone number of the applicant;

b) the valid charter document of the applicant business entity;

c) the objective of the temporary media services proposed;

d) the proposed transmission time in a daily, weekly or monthly breakdown;

e) the program package;

f) the first and last day the proposed temporary media service;

g)⁴

h) the title of the media service facilities or the premises from where the temporary media services will be provided in regard to Paragraph c) of Subsection (1).

¹ Established under Subsection (23) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

² Repealed by Paragraph c) of Subsection (2) of Section 50 of Act XXXIX of 2014, effective as of 30 September 2014.

³ Established under Subsection (24) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

⁴ Repealed by Paragraph d) of Subsection (2) of Section 50 of Act XXXIX of 2014, effective as of 30 September 2014.

(3)¹ Applications shall be evaluated within twenty days of submission. If the application fails to meet the requirements set out in Subsection (2), the Media Council shall call on the applicant to remedy deficiencies. Remedying deficiencies shall be carried out within five days of delivery. The deadline for remedying deficiencies shall apply with prejudice, upon which the Media Council shall refuse the application. The Media Council shall refuse the application without examining its merits if at least thirty days have not elapsed between the submission of the application and the starting date of the proposed temporary media services.

(4)² If several applications are submitted for the same media service facility, the Media Council shall evaluate such applications on a first come first served basis. If the Media Council decides to conclude a public contract based on an application received earlier, the provisions of Subsection (5) shall apply to the evaluation of applications received later, and applicants shall be advised to modify the dates under Paragraph *f*) of Subsection (2), if appropriate.

(5) A provisional public contract may be concluded:

- a*) once a year with the same business entity,
- b*) three times a year in a given public administration area. Provisional public contracts must be concluded at least fifteen days apart.

(6)³ The media service provider authorized to provide temporary media services may not move to link up with another media service provider in networking, nor may it initiate the expansion of its area of transmission.

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

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

(9) The period of the temporary media service specified under Subsection (1) may not be extended.

(10) Where the right to provide audiovisual media services set to expire between 1 January 2010 and the target date specified in Subsection (1) of Section 38 of the DTA, and it cannot be renewed pursuant to Subsection (5) of Section 48, the Media Council may enter into a provisional public contract - at the media service provider's request - for rights to provide media services, provisionally, by the deadline prescribed for transition to digital technology in audiovisual media services.

(11)⁴ Where the right to provide linear radio media services are set to expire after it was already renewed once by the Media Council, and the tender procedure for the media service facilities is already in progress, the Media Council may enter into a provisional public contract with the media service provider holding the right previously - at his request - for not more than sixty days, on several occasions. Under this Subsection a provisional public contract may be concluded only until the conclusion of the tender procedure, or until the binding conclusion of a judicial review if one has been opened against the decision adopted on the merits of the tender procedure or against the ruling terminating the tender procedure. The provisional public contract shall cease to exist on the day when the contract awarded upon the tender procedure is concluded.

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

(13)⁵ In the application of Subsections (10)-(11), the Media Council shall enter into a provisional public contract if the media service provider has no overdue debt owed to the Media Council, and if able to verify payment of the media service license fee for the entire period to which the temporary right applies - for half a year in connection with audiovisual media services - on or before the day of conclusion of the contract.

Chapter IV

¹ Amended by Subsection (75) of Section 64 of Act CVII of 2011.

² Established: by paragraph (14) Section 29 of Act LXVI of 2012. In force: as of 3. 07. 2012.

³ Amended by Subsection (75) of Section 64 of Act CVII of 2011.

⁴ Established: by paragraph (15) Section 29 of Act LXVI of 2012. In force: as of 3. 07. 2012.

⁵ Enacted by Subsection (25) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

COMMUNITY MEDIA SERVICES

Section 66

(1) Linear community media services:

*a)*¹ are intended to serve or satisfy the special needs for information of and to provide access to cultural programs for certain specific social, nationalities, cultural or religious communities or groups, or

b) residents of a given settlement, region or area of transmission, or

c) are used for broadcasting programs aimed at achieving the objectives of public media services set out in Section 83 in the majority of their transmission time.

(2) Providers of community media services shall define in their media service policy:

a) the objective of their activity;

b) the cultural areas and subjects which they have undertaken to represent;

c) the objectives of the public media services which they have undertaken to serve;

d) the community or communities (social groups or residents of specific geographic areas) that they intend to serve;

e) if they serve the needs of a specific community according to Paragraphs *a)*-*b)* of Subsection (1), an indication of such community and the minimum proportion of the programs aimed at such community expressed in a percentage of the total transmission time.

(3) Media service providers shall report annually to the Media Council on their compliance with the legislative provisions governing community media services and with their media service policies.

(4) Linear community media services shall:

a) provide regular information about social or local community news, and perform other newscasting;

b) broadcast cultural programs;

c) strive to take into consideration the needs of those with hearing impairment in the case of audiovisual media services;

*d)*² in the case of audiovisual media services, operate in accordance with the requirements set out in Section 20, without claiming the exemption under Subsection (2) of Section 22, pertaining to Hungarian and European program quotas, excluding any exemption under Subsection (2) of Section 22 pertaining to program quotas applicable to independent program makers;

*e)*³ have at least four hours of daily transmission time;

f) broadcast at least four hours of programs weekly, broadcast for the first time (not reruns) produce and edited by self in the same calendar year;

*g)*⁴ broadcast programs serving the public service objectives set out in Section 83 in over two-thirds of its weekly transmission time, including the news programs, political programs and cultural programs aimed at the community served, as well as other similar programs not primarily aimed at the community in question;

*h)*⁵ in the case of radio service provision, allocate at least fifty percent of its weekly transmission time committed to programs presenting musical works to the presentation of Hungarian musical works.

1 Amended: by subparagraph *e)* paragraph (1) Section 224 of Act CLXXIX of 2011. In force: as of 1. 01. 2012.

2 Established: by paragraph (16) Section 29 of Act LXVI of 2012. In force: as of 3. 07. 2012.

3 Amended by Subsection (26) of Section 64 of Act CVII of 2011.

4 Amended by Subsection (75) of Section 64 of Act CVII of 2011.

5 Amended by Subsection (75) of Section 64 of Act CVII of 2011.

(5)¹ The recognition of local or regional media services as community media services shall take place through the Media Council's decision on awarding the contract for media services upon a tender procedure - for the utilization of the right to provide media services - opened according to this Act, or in the Media Council's procedure opened specifically for this purpose, based on the Media Council's decision. This procedure may be initiated by the media service provider following admission of the media service into the register under Section 42. In the course of its procedure, the Media Council shall examine whether the existing or proposed media service and the contents of the media service policy thereof satisfy the criteria laid down under Subsections (1)-(4), and shall adopt an official resolution within sixty days. National media service may not be recognized as community media service.

(6) Following recognition as per Subsection (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, at least every two years - and following the first year in the case of new services -, in the interest of which the media service provider shall disclose detailed data regarding the programs it disseminates and the contents of the media service. If, according to the findings of the Media Council, the media service reviewed fails to meet the requirements for linear community media services, the Media Council shall revoke recognition as a community media service by way of a resolution.

(7)² Where recognition as a community media service is refused or withdrawn by way of a resolution, the media service provider affected may not initiate the proceedings under Subsection (5) within a half-year period following the delivery of such resolution.

Chapter V

PREVENTING MARKET CONCENTRATION, MEDIA SERVICE PROVIDERS WITH SIGNIFICANT POWERS OF INFLUENCE

General Rules on the Prevention of Media Market Concentration

Section 67

The market concentration of providers of 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.

Section 68

(1) Providers of linear audiovisual media service with an average annual audience share of at least thirty-five percent, linear radio media service providers, and linear audiovisual and linear radio media service providers with a joint average annual audience share of at least forty percent, any owner of media service providers and any person or business entity with a qualifying holding in the media service provider's owner:

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

b) shall take measures in order to increase the diversity of the media market by modifying the media service's program structure, by increasing the proportion of Hungarian works and programs prepared by independent program makers, or in any other way.

(2)³ In the case described under Paragraph *a)* of Subsection (1), if a media service provider affected by the rule restricting media market concentration wishes to acquire a share in a business entity engaged in providing media services, the Media Council shall refuse to grant regulatory approval in the procedure conducted according to Section 171.

¹ Established: by paragraph (17) Section 29 of Act LXVI of 2012. In force: as of 3. 07. 2012.

² Enacted by Subsection (27) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

³ Amended by Paragraph *b)* of Subsection (2) of Section 125 of Act CCLII of 2013.

(3) In the case described under Paragraph *b*) of Subsection (1), in order to determine the measures aimed at increasing diversity, the Media Council may enter into a public contract - for a term of at least one year - with the media service provider at the media service provider's request, where the Media Council shall be entitled to weigh the acceptance of the commitments proposed by the media service provider. Such applications may be submitted within thirty days from the time of delivery of the Media Council's official resolution under Subsection (7) of Section 70. If the public contract is not concluded - due to failure to reach an understanding - within three months from the date of delivery of the official resolution specified in Subsection (7) of Section 70, the Media Council shall terminate the procedure by way of a ruling.

(4) In the absence of the conclusion of a public contract referred to in Subsection (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 date of delivery of the Media Council's official resolution specified in Subsection (7) of Section 70. In its procedure for the approval of the application, the Media Council shall assess whether the announced measures are suitable for decreasing the information monopoly that have existed previously, and for increasing media market diversity and pluralism. In the event of failure to comply with this obligation in due time the Media Council shall impose an administrative fine.

(5) If the application is found in compliance with the requirements set out in Subsection (4), the Media Council shall approve it by way of a resolution.

(6) If there is any doubt, the burden of proof to show that the proposed measures are in compliance with the requirements set out in Subsection (4) lies with the media service provider.

(7) If the Media Council does not approve the proposed measures, it shall issue a resolution identifying the causes of non-compliance from the perspective of the principles set out in Subsection (4).

(8) In the case described in Subsection (7), the media service provider shall submit a new plan for proposed measures by the deadline prescribed by the Media Council, in any case within not more than thirty days, taking into account the factors set forth in the Media Council's resolution referred to in Subsection (7). In the event of failure to comply with this obligation in due time the Media Council shall impose an administrative fine. If the measures specified in the new application also fail to satisfy the requirements set out in Subsection (4), the Media Council may, in accordance with Sections 185-187, apply the relevant consequences.

(9) The Media Council shall monitor the implementation of the measures approved in its resolution within the framework of general administrative supervision.

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

Definition of Media Service Providers with Significant Powers of Influence

Section 69

(1) SPI media service provider shall mean any linear audiovisual media service provider and linear radio media service provider with an average annual audience share of at least fifteen percent, provided that the average annual audience share of at least one media service they provide reaches three percent.

(2) The Media Council shall monitor compliance with the obligations prescribed for SPI media service providers in Section 32 and Sections 38-39 on a regular basis.

(3) The Authority may engage the services of an external contractor by way of an agreement for measuring the average annual audience share defined in Section 68 and Subsection (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 include the method for measuring audience shares, the professional criteria thereof, and the procedure for auditing the findings.

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

Rules of Procedures Aimed at Preventing Media Market Concentration and for Identifying Media Service Providers with Significant Powers of Influence

Section 70

(1)¹ In order to conduct procedures for the prevention of media market concentration and for identifying SPI media service providers, the Media Council shall analyze market facts and circumstances relevant for the assessment of the level of concentration (hereinafter referred to as *_relevant*) - in particular the media service provider's average annual audience share for the previous calendar year - in administrative proceeding governed by the APA, subject to the exceptions set out in Subsections (2)-(6).

(2) In order to clarify the facts and circumstances considered relevant for the purposes of the aforesaid administrative proceeding, the Media Council may order media service providers to disclose data by way of a ruling. The ruling may not be appealed independently; however, it may be contested in an appeal filed against the decision of substance made in a procedure that may follow the administrative proceedings aimed at the prevention of media market concentration and for identifying SPI media service providers.

(3) In the event of any failure to comply, or improper compliance with data disclosure requirements, the Media Council shall impose the administrative fine referred to in Subsection (8) of Section 175. Additionally, in case of failure to comply, or improper compliance with data disclosure requirements, the Media Council shall have powers - and in case of repeated offence, shall be obliged - to impose a fine upon the infringer's executive officer referred to in Subparagraph *ad*) of Subsection (1) of Section 45, or upon his notified representative in an amount between fifty thousand and three million forints.

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

a)² the audience share of all linear media services distributed in the territory of Hungary by the media service provider;

b)³ the audience share of linear media services disseminated in the territory of Hungary by any media service provider in which the media service provider affected maintains a qualifying holding; and

c)⁴ the audience share of linear media services disseminated in the territory of Hungary by any media service provider in which either of the owners of the media service provider affected, or the owners or such owners maintain a qualifying holding.

(5) If, based on the regulatory inspection, the Media Council finds that there exist a circumstance providing grounds for conducting a procedure for the prevention of media market concentration and/or for identifying SPI media service providers, it shall adopt a ruling - by way of derogation from the relevant provisions of the APA - solely for the opening of proceedings.

(6) If, relying on the regulatory inspection, the Media Council finds that neither the media service providers affected by the restriction of media market concentration identified in a resolution adopted previously under Subsection (7), nor the group of SPI media service providers identified in its resolution under Subsection (7) or in the public contract under Subsection (10) has changed, no proceedings shall be opened.

(7) In the proceedings for the prevention of media market concentration and for identifying SPI media service providers, the Media Council shall identify the media service provider affected by the restriction of media market concentration under Section 68, or the SPI media service providers under Section 69 in an official resolution, and shall decide on the termination of such status determined in its earlier resolution.

1 Established by Subsection (28) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.
2 Amended: by subparagraph c) Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.
3 Amended: by subparagraph i) Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.
4 Amended: by subparagraph i) Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.

(8) In its resolution made in proceedings for the identification of SPI media service providers, the Media Council shall specifically define the obligations imposed upon SPI media service providers pursuant to Section 32 and Sections 38-39, taking into account the assessment criteria defined therein.

(9)¹ Judicial review of the Media Council's resolution for the prevention of media market concentration and the identification of SPI media service providers may be requested by the client, or any other party to the proceeding concerning provisions expressly pertaining to him, from the Fővárosi Közigazgatási és Munkaügyi Bíróság (*Budapest Court of Public Administration and Labor*) within fifteen days of the time of delivery of the resolution alleging infringement.

(9a)² The Media Council shall forward the claim - together with the documents and representations of the case - to the Fővárosi Közigazgatási és Munkaügyi Bíróság within fifteen days of receipt thereof. The court shall hear the petition for a judicial review and adopt a decision within sixty days from the date the Media Council has dispatched the petition to the court, and shall ensure that its decision is given in writing before the date of delivery. A motion for retrial or an appeal may not be submitted against the decision of the court. A petition for review may be lodged within fifteen days from the date of delivery of the resolution, with the proviso that the petition for review shall be delivered to the Fővárosi Közigazgatási és Munkaügyi Bíróság within the deadline prescribed for submission of the petition for review. That deadline shall apply with prejudice; no application for continuation shall be accepted upon missing the deadline. The Kúria (*Curia*) shall adopt a decision concerning the petition within sixty days, and shall ensure that its decision is given in writing within that time. The Fővárosi Közigazgatási és Munkaügyi Bíróság, and the Kúria shall deliver its decision in priority proceedings. The court may overturn the resolution of the Media Council.

(10) In its proceedings for the identification of SPI media service providers, the Media Council may - in lieu of adopting a resolution - enter into a public contract with the media service provider concerning its identification as an SPI media service provider, or the exact contents of the obligations imposed upon the SPI media service provider pursuant to Section 32 and Sections 38-39. In such cases, the parties may diverge from the assessment criteria for determining the obligations specified in Section 32 and Sections 38-39, with the proviso that SPI media service providers may not be exempted, even in the public contract, from their obligations set out therein.

(11) The Media Council shall conduct the procedure for the prevention of media market concentration and the identification of SPI media service providers - with the exception set out in Subsection (6) - by 30 September of each year. For the identification of SPI media service providers, their average audience share of the previous calendar year shall be taken into account. SPI media service providers shall discharge their obligations from 1 January of the year following the Media Council's decision. The Media Council's resolution made in proceedings for the prevention of media market concentration and for the identification of SPI media service providers, as well as the public contract already executed shall remain in force until the next resolution adopted or public contract executed upon proceedings conducted on the same subject in the following year enters into force.

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

Provisions Governing Providers of Analogue Linear Radio Media Services Acquiring Rights to Media Services Based on a Public Contract or Broadcasting Agreement

Section 71

(1) Those authorized to provide analogue linear radio media services based on a public contract or broadcasting agreement shall have the right to simultaneously provide not more than:

- a) one national analogue linear radio media service;
- b) two regional and four local analogue linear radio media services; or

¹ Established: by paragraph (4) Section 69 of Act CCXI of 2012. In force: as of 1. 01. 2013.

² Enacted: by paragraph (4) Section 69 of Act CCXI of 2012. In force: as of 1. 01. 2013.

c) twelve local analogue linear radio media services.

(2) With the exception of thematic analogue linear radio media services, providers authorized to provide national analogue linear radio media services and persons with a qualifying holding therein may not acquire a qualifying holding in other media service providers or in broadcasting companies.

(3) Any one business entity may only acquire a qualifying holding in organizations authorized to provide analogue linear radio media services in keeping with the restrictions set out under Subsection (1).

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

(5) Regional and local linear radio media service providers or their owners shall not, with the exceptions set out in Subsection (6), acquire a qualifying holding in other business entities providing regional or local linear radio media services falling within their area of transmission, and regional and local linear radio media service providers or their owners may not provide other regional or local linear radio media services inside the area their media services.

(6) The restriction set out under Subsection (5) shall not apply if:

a) the area of transmission of the two media service providers overlaps up to twenty percent at most, or

b) unused transmission time remains after the evaluation of the tender and an agreement is concluded in a manner that a new tender is published for the unused transmission time with the media service provider defined under Subsection (5), provided that the transmission time thus acquired differs up to eighty percent from its existing transmission time, and none of the transmission times exceed four hours.

(7) Concentrations of companies under the Act on the Prohibition of Unfair Market Practices shall not be permitted if such were prejudicial to this Act.

Chapter VI

PROTECTION OF DIVERSITY IN BROADCASTING

Diversity in Broadcasting

Section 72

(1) The number of media services provided by companies in which the same business entity has a qualifying holding shall not exceed one quarter of the audiovisual media services or half the radio media services disseminated through a given transmission system.

(2) The number of media services the providers of which are engaged in broadcasting activities as well, or in which the same broadcasting company has an ownership interest shall not exceed one quarter of the audiovisual media services or half of the radio media services disseminated through a given transmission system.

(3) The ratios defined under Subsections (1)-(2) shall also apply to the program packages with the highest number of subscribers at the end of the previous calendar year in the given transmission system offered to viewers or listeners by the broadcasting company.

(4) The obligations defined under Subsections (1)-(3) shall not apply to broadcasting activities carried out by public media service providers.

“Must Carry” Obligation

Section 73

(1)¹ In order to preserve, protect and enhance Hungarian and European culture and the culture of nationalities, preserve national or ethnic minority languages, satisfy the information needs of citizens and facilitate participation in democratic public affairs and preserve and enhance the diversity of opinion, the broadcaster defined under Subsections (2)-(3) shall have the obligations set out in Sections 74-75 (hereinafter referred to as "must carry obligation").

(2) Must carry obligations apply to broadcasters of radio and audiovisual media services through transmission systems or networks to the general public.

(3) Transmission systems or networks used for the broadcasting of radio and audiovisual media services to the public include, in particular, cable television networks, satellite and terrestrial broadcasting (except analogue audiovisual transmission) networks, as well as transmission systems allowing the transmission of media services through Internet Protocol, if the nature and conditions of the service are identical to those of broadcasting, or if it substitutes broadcasting otherwise implemented.

(4) Must carry obligations shall also apply to service providers and/or operators broadcasting programs through other transmission systems or networks where a significant number of subscribers and users of such systems and/or networks use them as their principal means to receive radio and audiovisual media services. The Media Council shall monitor such transmission systems and/or networks regularly, in any case every three years, and perform their analysis in the context of such monitoring. If, in the course of the administrative proceedings opened relying on the findings of such monitoring, the Media Council concludes that a must carry obligation shall be prescribed for the transmission system or network under review, it shall adopt a resolution to impose such must carry obligation upon all service providers and operators broadcasting through the transmission system or network.

 (5)²

(6)³ If the broadcaster simultaneously provides broadcasting services on several transmission systems, broadcasting networks or broadcast transmission platforms, the must carry obligation under Subsections (1)-(4) shall apply separately for each transmission system, broadcasting network and broadcast transmission platform, except if the broadcaster provides an integrated, complex program package containing several broadcast transmission platforms. If providing an integrated, complex program package containing several broadcast transmission platforms, the broadcaster's must carry obligation shall apply to each program package separately.

(7) A broadcaster shall be considered to enjoy dominant influence on the media market (hereinafter referred to as "broadcaster with dominant influence") if:

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

b)⁴ in case of publicly accessible broadcasting services available free of charge, the broadcaster's area of transmission covers over one-third of the population of Hungary, and the sales revenue from broadcasting or related services - with the exception of analogue transmission - on the territory of Hungary of the broadcaster or any business that maintains a qualifying holding in such broadcaster or its owner, or other business entities operating in which the broadcaster or its owner maintains a qualifying holding exceeds one billion forints annually.⁵

(8) In case of doubt, the burden of proof to show that the conditions set out under Subsection (7) do not apply lies with the broadcaster with dominant influence.

Section 74


¹ Amended: by subparagraph f) paragraph (1) Section 224 of Act CLXXIX of 2011. In force: as of 1. 01. 2012.

² Repealed by Section 31 of Act CVII of 2014, effective as of 1 January 2015.

³ Established: by paragraph (1) Section 28 of Act LXVI of 2012. In force: as of 3. 07. 2012.

⁴ Amended: by subparagraph c) Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.

⁵ Amended: by subparagraph c) Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.

 (1) The broadcaster shall transmit a total of four linear audiovisual media services and three linear radio media services of public media service providers free of charge, with the exception of broadcasting implemented by way of transmission. The broadcaster shall not be allowed to request an additional fee from subscribers in excess of the costs of access related to ensuring such access to media services. The public service media service provider shall not demand any consideration from the broadcaster for the distribution of such media services.

(2)¹ The broadcaster shall transmit the public media services referred to in Subsection (1), falling under the scope of must carry obligations as a basic service in a manner that such services - with the exception of analogue broadcasting networks - may also be used as separate subscription services by subscribers. The broadcaster shall not be allowed to request an additional fee for the use of such subscriber service packages from subscribers in excess of the costs of access related to ensuring access to such media services. In case of analogue broadcasting networks, all public media services falling under the scope of must carry obligations shall be made accessible to subscribers in all program packages.

(3)² Public media service providers shall provide the media services disseminated using transmission as per Subsection (1) free of charge to subscribers.

(4)³ The Office shall monitor compliance with the provisions set out in Subsections (1)-(3) of its own motion or upon request.

(5)⁴ The must carry obligation referred to in Subsections (1)-(3) shall not apply to broadcasters providing broadcasting services by means of terrestrial transmission through local or regional television channels, with respect to such services.

Section 75

(1) Broadcasters shall - up to ten percent of their total capacity, and up to three media services at most - be subject to contracting obligation regarding the contractual offers made by media service providers for the provision of regional or local audiovisual community media services, where this is technically and economically feasible.

(2)⁵ Broadcasters shall - in respect of no more than two further media services - be subject to a contracting obligation regarding the contractual offers made by media service providers for the provision of local audiovisual media services, where this is technically and economically feasible, provided that the area of transmission of the media service provider falls within the given broadcaster's area of transmission based on the Authority's register or in the separate service area referred to in Subsection (4), and it provides such media services specifically for the given area's population. Pursuant to Subsections (1)-(2), regarding the local media services falling under must carry obligations, satellite broadcasters and terrestrial broadcasting channels shall not be subject to any must carry obligation.

(3)⁶ Over and above the media services falling under the must carry obligation defined in Subsection (1) of Section 74 and Subsections (1)-(2) of this Section, the Media Council may - of its own motion or at the media service provider's request - define in an official resolution at most one other linear community or public service media service - serving the media policy objectives laid down in this Act - for each of the two additional media service providers for which the broadcaster shall have a contracting obligation regarding the technically and economically feasible contractual offer. When rendering its resolution, the Media Council shall assess the extent to which the decision contributes to the diversity of the media market and of information, to the achievement of the public service objectives set out in this Act and to the preservation and enhancement of culture. Broadcasters shall not have the legal status of a client in such administrative proceedings.

1 Established by Subsection (29) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

2 Established by Subsection (29) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

3 Established by Subsection (29) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

4 Established: by Section 21 of Act CXXI of 2013. In force: as of 5. 07. 2013.

5 Established: by paragraph (2) Section 28 of Act LXVI of 2012. In force: as of 3. 07. 2012.

6 Established by Subsection (30) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

(4)¹ If the transmission system of the broadcaster referred to in Subsections (1)-(3) comprises several components serving different areas that can be technically distinguished from each other, the obligations under Subsections (1)-(3) shall apply to the broadcaster separately for each technically distinguishable area. Within the meaning of must carry obligation technically distinguishable area means an area served by the transmission system in a section, within which no further media services can be inserted to or removed from the complex program signal transmitted within reason according to technical and economic considerations, that is to say the area where each user receiving the same program package has access to the same program structure.

(5)² For the purposes of Subsections (1)-(2) and (7), the media service provider shall be considered as the beneficiary of must carry obligations relating to the media services it provides:

- a) in respect of which it requests the broadcaster to disseminate the media service, and
- b) it has negotiated in good faith in making contractual offer and in reaching an agreement, and cooperated in accordance with the principle of fairness, and in fact discussed the merits with respect to the broadcaster's reply and disposition given in connection with the media service provider's contractual offer, and to the broadcaster's request for information, with a view to concluding the contract.

In the application of Subsection (3), the Media Council shall be entitled to assign exclusively the linear community media services provided by a media service provider other than the providers of linear community media services conveyed pursuant to Subsections (1)-(2).

(6) For the purposes of Subsections (1)-(4), the broadcaster's information channels or the media services provided by a business entity in which, or in the owner of which, the broadcasting company or the owner of such broadcasting company has a qualifying holding shall not be taken into account.

(7) The broadcaster with dominant influence shall have a contracting obligation for three more linear community audiovisual media services in addition to those listed under Subsections (1)-(3) in respect of the contractual offer for the provision of audiovisual community media services technically and economically feasible.

(8)³ The obligation to contract shall be satisfied in the chronological order of the offers. For the purpose of contracting obligation the chronological order of contractual offers shall be based on the date of delivery of the written contractual offer to the broadcaster for the dissemination of media services, or if the contractual offer is presented orally, the date when the broadcaster gains knowledge of the offer. In case of doubt, the burden of proof to verify the date of delivery of the offer to the broadcaster or the date when the broadcaster gains knowledge of the offer lies with the broadcaster. If, in the course of discharging the must carry obligation referred to in Subsections (1) and (2) collectively, or under the must carry obligation specified in Subsection (7), the broadcaster is required to transmit only one authorized media service, however, several authorized media service providers simultaneously also require transmission, the broadcaster shall, in an unbiased manner, assess the authorized media service providers' contractual offers based on objective criteria, in the context of a public and transparent procedure.

(9) Offers may be rejected on objective technical grounds if the service provision requirement formulated therein jeopardizes the safety of operation or the integrity of the network.

(10)⁴ Offers may be rejected on objective economic grounds if the service provision requirement formulated therein jeopardizes the safety of the broadcaster's operation to an extent that an agreement is rendered impossible.

(11) If there is any doubt, the burden of proof to show that transmission is either economically or technically unfeasible lies with the broadcaster.

(12) The Media Council shall inform the media service providers affected on the opening of the administrative proceedings referred to in Subsection (3) in the form of a ruling. The ruling shall only contain the subject-matter of the case and a brief description thereof. The Media Council shall publish such rulings by way of public notice. Only clients participating in the procedure shall be entitled to exercise client rights. The Media Council shall deliver its official resolution made in the procedure by way of public notice.

1 Established: by paragraph (3) Section 28 of Act LXVI of 2012. In force: as of 3. 07. 2012.
2 Established: by paragraph (3) Section 28 of Act LXVI of 2012. In force: as of 3. 07. 2012.
3 Established: by paragraph (4) Section 28 of Act LXVI of 2012. In force: as of 3. 07. 2012.
4 Established: by paragraph (5) Section 28 of Act LXVI of 2012. In force: as of 3. 07. 2012.

(13) The Media Council may amend its official resolution under Subsection (3) in accordance with the discretionary criteria defined in Subsection (3) where this is warranted by a substantial change in circumstances. The provisions of Subsection (12) shall apply to the delivery of the amended resolution.

(14) In the course of the judicial review of the official resolutions defined under Subsections (3) and (13), the filing of the statement of claim shall have no suspensory effect on the enforcement of the resolution and the court shall not suspend the enforcement of the official resolution contested. The resolution shall be executable with immediate effect, irrespective of the submission of a claim.

(15)¹ The proper enforcement of the provisions of Subsections (1)-(11), and their implementation by the broadcaster shall be monitored by the Media Council of its own motion, or upon receipt of notice under Section 145 within the framework of general administrative supervision.

(16)² If the Media Council reaches the conclusion upon the regulatory inspection that the broadcaster has violated the provisions of Subsections (1)-(11), and the infringement can be remedied - without new proceedings - by abolishing the unlawful conduct or by restoring operations within the framework of the law, the Media Council shall apprise the broadcaster of the infringement and shall adopt a ruling to order the broadcaster to cease such actions within the prescribed time limit of not less than twenty days, or suffer the legal implications indicated.

(17)³ If the required result was not achieved inside the new time limit referred to in Subsection (16), or if Subsection (16) cannot be applied, the Media Council shall *ex officio* open the proceedings conferred under its competence.

(18)⁴ Any reduction in the number of public media services to be conveyed according to Subsection (1) of Section 74 following the resolution on the assignment becoming final and enforceable shall not effect the contents and limits of the must carry obligation relating to the public media services designated pursuant to Subsection (3) by way of the Media Council's official resolution, nor the related rights and obligations.

Section 76⁵

(1) The media service provider shall be entitled to initiate proceedings for action in dispute under Sections 172-174 if:

a) either of the agreements under Subsections (1)-(3) and (7) of Section 75 is not concluded within thirty days of the offer despite of the media service provider's efforts to smooth out the differences, or

b) the broadcaster violates the beneficiary media service provider's broadcasting right or legitimate interest defined by legislation or agreement.

(2) If in proceedings for action in dispute the media service provider requests - in the absence of agreement as to the contents of the contract - the Media Council under Subsection (3) of Section 172 to conclude an agreement or establish the particulars of its provisions, the Media Council - in exercising this competence - shall establish the contents of the contract, if the petition is found substantiated, as per the following:

a) the media service in question must be disseminated in the broadcaster's most popular subscriber service or program package;

b)⁶ the broadcaster may not request any consideration for the transmission of the media services referred to in Subsections (1)-(3) and (7) of Section 75 (including the fee for the installation of facilities for receiving program retransmission), and the media service provider may not charge any program service fee (broadcasting fee);

1 Enacted by Subsection (32) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

2 Enacted by Subsection (32) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

3 Enacted by Subsection (32) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

4 Enacted by Subsection (33) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

5 Established: by paragraph (6) Section 28 of Act LXVI of 2012. In force: as of 3. 07. 2012.

6 Amended: by subparagraph a) Section 8 of Act XXXIII of 2013. In force: as of 5. 04. 2013.

c) the term of the contract for the dissemination of media services shall be one year, with the proviso that if neither of the parties notify the other party at least ninety days before the original term expires of their intention not to renew the contract, the term of the contract shall be automatically extended by one year, under the same contractual conditions.

Section 77

(1) The broadcaster shall send all agreements, including the amendments thereto, concluded with media service providers within the framework of must carry obligations defined in this Chapter - within thirty days from their conclusion or amendment - to the Office, and shall notify the Office of the termination of such agreements within thirty days of termination.

(2) The broadcasters and media service providers subject to must carry obligations as regulated in this Chapter shall disclose data upon the Authority_s request.

Obligation to Offer Media Services

Section 78

(1) Media service providers with significant powers of influence, and media service providers in which, or in the owner of which, a broadcaster with dominant influence or the owner of such broadcaster has a qualifying holding (for the purposes of Sections 78-81 hereinafter referred to collectively as "notified media service provider") shall be subject to the obligation defined in Subsection (2) in respect of all linear media services.

(2) The notified media service provider shall be subject to obligation to contract regarding the broadcaster_s fair and reasonable contractual offers in respect of all its linear media services. The notified media service provider shall be subject to contracting obligation separately for each linear media service.

(3) The notified media service provider shall not make the conclusion of any agreement pertaining to any of its media services conditional upon the conclusion of other agreements on media services, or the purchase of other services or products (prohibition on tying), and shall not include any condition not strictly necessary for the distribution of the media service as a material substantive element of such agreement.

(4) The notified media service provider and the broadcaster shall formulate the agreement and the contractual terms and conditions - including, but not limited to the fee - in accordance with the principle of non-discrimination, setting an accessible price level and in keeping with the principles of technological neutrality and economies of scale. In this context, the notified media service provider shall not unduly differentiate between the contractual offers of broadcasters. Parties shall be authorized to amend the pricing clauses of the agreement once annually, from the date of conclusion.

(5) Within the meaning of this Act it shall, in particular, be deemed a violation of the principle of non-discrimination where the notified media service provider:

a) renders broadcasting subject to technical specifications that the majority of providers of broadcasting services are not able to meet, or

b) sets the fee payable by the broadcaster - including any discount on business volume - allowing only one or very few broadcasters to benefit from the best available terms and conditions with regard to tariffs and prices.

(6) The offer may be rejected if performance of the undertaking contained therein is not feasible based on technical or economic factors, and the parties cannot come to an agreement regarding such terms in the procedure aimed at concluding an agreement.

(7) In case of doubt, the burden of proof to substantiate the refusal of the offer lies with the notified media service provider.

Section 79

(1) In order to ensure the use of appropriate and transparent procedures for discharging the contracting obligation set out in Subsection (2) of Section 78, the notified media service provider shall determine general contractual framework conditions for the dissemination of media services, and publish such conditions on its website.

(2) The notified media service provider shall determine its general contractual framework conditions referred to in Subsection (1) in accordance with the requirements of rationality, ensuring that they are legitimate, transparent and can be subject to verification. Conditions contrary to any of these shall not be applied.

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

a) the contractual framework conditions regarding the program fee payable to the notified media service provider, such as, in particular, the fundamental principles, method, period of application, method and date of payment of the pricing policy of the notified media service provider;

b) the procedure for the conclusion of the agreement, the method and terms for using the service, and the technical, economic or other restrictions thereof;

c) cases and conditions for the amendment or termination of the agreement;

d) cases of suspension of the service;

e) breach of agreement and the legal consequences thereof.

(4) In the event of any amendment of the contractual terms and conditions, the notified media service provider shall make the new contractual terms and conditions available at least thirty days before the entry into force of the new contractual terms and conditions.

(5) The Office shall check the fulfillment of the obligations set out under Subsections (1)-(4).

Section 80

(1) The broadcaster shall be entitled to initiate proceedings for action in dispute in accordance with Sections 172-174 if:

a) the agreement under Subsection (2) of Section 78 was not concluded within thirty days of the offer, or

b) the notified media service provider has violated the beneficiary broadcaster_s rights or legitimate interest defined by law or an agreement affecting broadcasting.

(2) If the amount of the fee payable by the broadcaster is disputed, the notified media service provider shall be responsible to verify the legality of the pricing and that proceedings had in fact been conducted in line with the obligation for equal treatment.

Section 81

(1) The notified media service provider shall send all agreements, including the amendments thereto, concluded with broadcasters within the framework of the obligation defined in Section 78 - within thirty days of their conclusion or amendment - to the Office, and shall notify the Office of the termination of such agreements within thirty days of termination.

(2) The notified media service providers and broadcasters subject to the obligation defined in Sections 78-79 shall disclose data upon the Authority_s request.

PART THREE

PUBLIC MEDIA SERVICES

Chapter I

BASIC PRINCIPLES AND OBJECTIVES OF PUBLIC MEDIA SERVICES

Basic Principles of Public Media Services

Section 82

Public media services:

- a) are provided independent from the State and economic operators alike, and the chief executives of public media service providers and those involved in their operations have professional autonomy, within the applicable legislative framework;
- b) function in a system that ensures accountability and the existence of public control;
- c)¹ are financed primarily from the joint voluntary contributions of those living in Hungary, with public funding;
- d) cannot primarily be focused on profit-making.

The Objectives of Public Media Services

Section 83

(1) The objectives of public media services include the following:

- a) providing comprehensive media services in the social and cultural sense, striving to address various levels of society and culturally distinct groups and individuals to the extent possible;
- b) fostering and advancing national, community and European identity, and enhancing culture and the Hungarian language;
- c) promoting and strengthening national cohesion and social integration, and respect the institution of marriage and family;
- d)² providing information on and holding up constitutional rights, the fundamental values of law and order and public policy within a democratic society;
- e)³ satisfying the media related needs of nationalities, religious and other communities, present their culture, fostering the native languages of nationalities;
- f) satisfying the special needs for media services of underprivileged groups who are at a great disadvantage due to their age, physical, mental or psychological state or social circumstances, as well as people living with a disability;
- g) serving the cultural needs of ethnic Hungarians living abroad, promoting their national self-identity and assisting in keeping alive their native language and fostering their spiritual relations with their motherland;
- h) broadcasting programs serving the physical, spiritual and moral development and widening the knowledge horizon of minors, also educational and general knowledge programs serving child protection purposes;
- i) discharging educational and general knowledge dissemination tasks and presenting the latest scientific discoveries;
- j) disseminating information promoting healthy lifestyles, the protection of the environment, nature and landscape conservation, public security and transport safety;
- k) broadcasting programs presenting the social, economic and cultural life of the various parts of Hungary and various areas within the Carpathian Basin;
- l)⁴ presenting Hungary and Hungarian culture to Europe and to the world, as well as the culture of nationalities living in Hungary;
- m) providing unbiased, accurate, in-depth, objective and responsible news service and reporting;
- n) presenting individual adverse opinions in tandem, conducting debates about public affairs, contributing to the freedom of opinion based on the reporting of reliable information;
- o) broadcasting a wide variety of diverse programs representing different values, presenting high quality entertainment as well as programs generating widespread interest;

1 Amended: by subparagraph b) Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.

2 Amended: by subparagraph n) Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.

3 Amended: by subparagraph g) paragraph (1) Section 224 of Act CLXXIX of 2011. In force: as of 1. 01. 2012.

4 Amended: by subparagraph h) paragraph (1) Section 224 of Act CLXXIX of 2011. In force: as of 1. 01. 2012.

p) presenting high quality program-making across every segment of the program stream, with reasonable and justified involvement in media market competition.

(2) Public media services shall strive to:

a) ensure innovation in the media industry, the continuous improvement of professional standards and the use of high ethical standards in media services;

b) boldly use new technologies and broadcasting methods, play a pivotal role in discovering new digital and online media services and put them to use in the public interest;

c) promote the acquisition of knowledge and skills needed for media literacy and further develop the former through public service programs and other activities outside the scope of media services;

d) support the Hungarian film industry and present new Hungarian cinematographic creations;

e) serve public interest through activities other than media services, such as book publishing or active involvement in theater events, among other things.

(3) Public media service providers shall contribute to the long-term preservation of cultural values and historical documents that might come into their possession in the course of performing their activities, whether by way of archiving or collecting and by looking after them in a professional manner.

Chapter II

KÖZSZOLGÁLATI KÖZALAPÍTVÁNY (*PUBLIC SERVICE FOUNDATION*)

General Provisions

Section 84

 (1) Parliament shall establish the Közzolgálati Közalapítvány (hereinafter referred to as "Public Foundation") with a view to providing for public service media and news service programs and for protecting their independence. The Public Foundation is owned by Magyar Televízió Zártkörűen Működő Nonprofit Részvénytársaság (*Hungarian National Television Private Limited Company*), Duna Televízió Zártkörűen Működő Nonprofit Részvénytársaság (*Duna Television Private Limited Company*), Magyar Rádió Zártkörűen Működő Nonprofit Részvénytársaság (*Hungarian National Radio Private Limited Company*), and Magyar Távirati Iroda Zártkörűen Működő Nonprofit Részvénytársaság (*National News Agency Private Limited Company*) (hereinafter referred to collectively as "public media service providers").

(2) The starting capital of the Public Foundation shall be established by Parliament in a parliamentary resolution.

(3) Parliament shall adopt and may amend the Public Foundation's charter document. The issues of the operation and organizational structure of the Public Foundation not regulated in this Act nor in the charter document shall be governed in the Public Foundation's Organizational and Operational Regulations.

(4) In the absence of any provisions of this Act to the contrary, the general rules relating to foundations shall apply to the Public Foundation.

Board of Trustees of the Közzolgálati Közalapítvány

Section 85

(1) The Board of Trustees shall function as the management body of the Public Foundation.

(2) The responsibilities and scope of activities of the Board of Trustees shall be laid down - within the framework of this Act - by the charter document of the Public Foundation.

¹ Established by Subsection (1) of Section 89 of Act XIV of 2014. Enters into force on 6 May 2014, the day of the inaugural session of the Parliament formed after the general parliamentary elections.

(3) The Board of Trustees shall define and approve its rules of procedure within the framework of this Act and the charter document of the Public Foundation, as well as the Organizational and Operational Regulations of the Public Foundation. The rules of procedure shall provide for the substitution of the chairperson.

(4) The activities of the Board of Trustees shall be supported by the office of the Board of Trustees (hereinafter referred to as "Board Office"). The administrative and other similar functions of the Board of Trustees shall be handled by the Board Office. The Board of Trustees and members of the Board of Trustees shall be entitled to enlist the services of experts via the Board Office. The conditions for hiring experts and the operation of the Board Office shall be provided for in the Public Foundation's Organizational and Operational Regulations.

Composition of the Board of Trustees

Section 86

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

(2) One half of the members who may be elected by Parliament to the Board of Trustees shall be nominated by the governing faction and the other half by the opposition faction. The governing faction and the opposition factions shall agree as to the persons nominated by each side.

(3) Nominations for candidates shall be made within eight days of the opening date of the election procedure. The election shall be held within eight days of the nomination of candidates.

(4) In the event of any faction's failure to make a nomination, other factions of the given side may exercise the right of nomination due to that side.

(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-day period. A person who did not receive at least one-third of the votes of all the Members of Parliament in the previous round of election may not be re-nominated.

(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)² The Board of Trustees shall be deemed to have come to existence when all its members have been elected, and its chairperson as well as one other member has been delegated by the Media Council. Members of the Board of Trustees elected by Parliament shall take an oath in accordance with the Act on the Oath and Deposition of Public Officials, and its chairperson and delegated members shall take an oath upon entering office before the Speaker of Parliament in accordance with the Act on the Oath and Deposition of Public Officials.

(8) The formation of the Board of Trustees shall not be prevented by the failure of either the governing or the opposition faction to make a nomination, or in the event that not all nominees receive the necessary majority, or - if Subsection (5) applies - the new nominee does not get the necessary majority. In this case the Board of Trustees comes 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 subsequently filled up to reach full headcount in accordance with the provisions of Section 87.

(10) Members of the Board of Trustees are elected by Parliament for a term of nine years. The mandate of elected and delegated members shall all expire at the same time, that is to say nine years from the date of election of the former by Parliament.

Section 87

(1) If the mandate of either of the members terminates before the end of the term referred to in Subsection (10) of Section 86, the new member shall be nominated and elected in accordance with Subsections (2)-(7).

¹ Established by Subsection (2) of Section 89 of Act XIV of 2014. Enters into force on 6 May 2014, the day of the inaugural session of the Parliament formed after the general parliamentary elections.

² Established: by paragraph (1) Section 389 of Act CCI of 2011. In force: as of 1. 01. 2012.

(2) If the new member is nominated during the same Parliamentary cycle when other members of the Board of Trustees are elected, or if the governing faction and the opposition factions remain unchanged following Parliamentary elections held after the Parliamentary cycle in question, nomination shall be governed by the provisions of Subsections (2)-(4) of Section 86, where the right of nomination shall fall upon the faction - government or opposition - that has originally nominated the member whose mandate was terminated, and in whose replacement the new member is being nominated.

(3) If the new member is nominated after the Parliamentary cycle during which other Board of Trustees members were elected, a nominations committee shall be formed comprised of one member from each Parliament faction to present a nomination by unanimous voting within fifteen days from the time of formation of the nominations committee, provided that any change took place in the government faction and in the opposition factions after the Parliamentary elections held after the Parliamentary cycle when the Board of Trustees had been elected.

(4) If the nominations committee is unable to propose a nominee within the time limit specified in Subsection (3), the nominations committee shall be authorized to make a nomination requiring at least two-thirds of the weighted votes. In this process, the voting power of members of the nominations committee shall be weighted at the time of voting consistent with the number of members of the Parliament faction on whose behalf they were elected.

(5) In the course of the nomination procedure defined under Subsections (3)-(4), the nomination committee shall take into consideration any changes taking place either on the side of the governing and the opposition faction, for instance changes in the affiliation of a Parliamentary faction, the establishment of a new faction or the termination of an existing faction.


(6) If the nominations committee remains unable to present a nominee in the case referred to in Subsection (4), a new nominations committee shall be installed.


(7)¹ After a successful nomination, Parliament shall elect the new member for the Board of Trustees for the rest of the term of members of the Board of Trustees already elected. The newly elected member of the Board of Trustees shall take an oath in accordance with the Act on the Oath and Deposition of Public 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 and/or member for the rest of the term of the Board of Trustees.

Section 88

(1) The provisions of Subsections (1)-(2) of Section 118 on conflict of interest pertaining to the President and Vice-President, executive director and deputy director of the Authority, as well as the provisions of Subsection (3) of Section 118 shall also apply to the chairperson and members of the Board of Trustees.

 (2) The chairperson and members of the Board of Trustees may not be engaged in any form of employment with the Public Foundation, and may not accept any valuable consideration under any title from any public media service provider under their supervision.

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

(4) If the chairperson of the Board of Trustees or any of its members fail to meet their obligation of verification upon receipt of notice under Subsection (4) of Section 89 for reasons within their control, 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 the date of the meeting establishing the conflict of interest, the plenary meeting of the Board of Trustees shall adopt a resolution terminating the membership of the chairperson or member in question. The chairperson or member of the Board of Trustees may not exercise his vested powers as of the date of the adoption of the resolution establishing the conflict of interest.

¹ Established by Subsection (3) of Section 89 of Act XIV of 2014. Enters into force on 6 May 2014, the day of the inaugural session of the Parliament formed after the general parliamentary elections.

(5) The chairperson or any member of the Board of Trustees shall be dismissed if being placed under guardianship affecting legal capacity.

(6) Mandate shall be terminated by way of expulsion if:

a) the chairperson or member of the Board of Trustees is unable to fulfill his vested responsibilities for more than six consecutive months for reasons within his control, or

b) the chairperson or any member of the Board of Trustees was indicted in criminal proceedings and was found guilty by the court's final verdict carrying a sentence of imprisonment or restraint from exercising the profession required for holding the office or being excluded from public affairs.

(7) The mandate of the chairperson or member of the Board of Trustees shall terminate upon his death.

Section 89

(1) Termination of the mandate of the chairperson or member of the Board of Trustees for reasons of conflicts of interest, or due to dismissal or expulsion shall be established and announced by the plenary meeting of the Board of Trustees.

(2) In the decision-making process of the Board of Trustees concerning any conflict of interest, dismissal or expulsion, the chairperson or the member affected may not take part in the voting process, and the unanimous decision of those entitled to vote is required to resolve such matters. If a unanimous decision is not rendered in the second round of voting concerning the issues mentioned above, the chairperson of the Board of Trustees shall move to transfer the case to Parliament to make the decision. In this case, Parliament shall adopt a decision on the conflict of interest, dismissal or expulsion.

(3) If any suspicion of a conflict of interest arises in relation to the chairperson of the Board of Trustees, the member designated in the procedural rules of the Board of Trustees shall substitute the chairperson in the proceedings defined under Subsections (5)-(6).


(4) If there is any evidence that Paragraph b) of Subsection (6) of Section 88 applies in respect of a member of the Board of Trustees, the chairperson of the Board of Trustees shall instruct the member of the Board of Trustees in writing - indicating also the legal ramifications of non-compliance - to verify within the prescribed deadline that he has no prior criminal record, and that he is not restrained by court order from exercising the profession required for holding an office in the Board of Trustees and has not been excluded from public affairs.


(5) The chairperson of the Board of Trustees shall be authorized to process the personal data of members of the Board of Trustees obtained under Subsection (4) until the end of the Board member's mandate.


(6) As regards the chairperson of the Board of Trustees the provisions contained in Subsections (4)-(5) shall apply, with the exception that the chairperson of the Board of Trustees shall supply the proof required under Subsection (4) to the Board of Trustees, and that the entitlement specified in Subsection (5) shall be exercised by the Board of Trustees. The chairperson of the Board of Trustees shall not take part in exercising the powers of the Board of Trustees described in this Subsection.


Powers and Responsibilities of the Board of Trustees

Section 90

 (1) The Board of Trustees shall have the following responsibilities:

 a) supervise the activities of public media service providers with a view to implementing the objectives of public media services;

 b) initiate the proceedings of the Media Council when of the opinion that a media service provider is engaged in any conduct that seriously violates or threatens the attainment of public media service objectives;

 c) safeguard the independence of public media service providers;

¹ Established by Subsection (4) of Section 89 of Act XIV of 2014. Enters into force on 6 May 2014, the day of the inaugural session of the Parliament formed after the general parliamentary elections.

- ☞ *d)* establish and amend the charter document of public media service providers, and have it published in the Magyar Közlöny (*Official Hungarian Gazette*);
- ☞ *e)* elect the executive directors of public media service providers, and determine the terms and conditions of their work contract as well as their remuneration;
- ☞ *f)* terminate the employment of the executive directors of public media service providers;
- ☞ *g)* elect the chairperson and members of the joint supervisory board for public media service providers, and shall recall them;
- ☞ *h)*¹ appoint the auditors of public media service providers, or terminate their mandate. The responsibilities, rights and competence of the auditor shall be defined by the Board of Trustees in the public media service provider's charter document in accordance with the provisions of the Civil Code governing business associations and the Accounting Act;
- ☞ *i)* approve the annual plan for financial management of the Public Foundation and establish its balance sheet;
- ☞ *j)*² in relation to public media service providers, exercise the powers of the General Meeting pursuant to the provisions of the Civil Code governing business associations, with the exceptions defined by this Act;
- ☞ *k)* dispose over the Public Foundation's assets in its capacity as the fiduciary of the Public Foundation;
- ☞ *l)* increase the capital of public media service providers, or reduce it as governed in the Public Foundation's charter document;
- ☞ *m)* approve the principles and key accounts of the annual financial management and financial plans of public media service providers;
- ☞ *n)* approve the balance sheet and profit and loss accounts of public media service providers;
- ☞ *o)* control the funding and financial management of public media service providers in terms of compliance with the relevant legislation of the European Union;
- ☞ *p)* grant prior authorization for negotiating contracts for sums of over three hundred million forints proposed to be concluded by any public media service provider;
- ☞ *q)* grant prior approval to borrowing arrangements of public media service providers and contracts for sums of over one hundred million forints proposed to be concluded by them, as well as for the amendment or termination of any contracts thus concluded;
- ☞ *r)* discharge other responsibilities conferred by this Act.

(2) In the application of Paragraphs *p*)-*q*) of Subsection (1), the value of all services to be paid for by the public media service provider within the same calendar year under various contracts with the same contracting party - regardless of their content - shall be taken into consideration on the aggregate.

Section 91

- ☞ (1)³ The Public Foundation shall exercise the founders' and shareholders' rights defined under the provisions of the Civil Code governing business associations in respect of public media service providers. However, the Public Foundation is not entitled:
 - ☞ *a)* to change the basic scope of activities of public media service providers;
 - ☞ *b)* to wind-up, merge, de-merge or transform public media service providers into another organizational form;
 - ☞ *c)* to deplete the assets of public media service providers;
 - ☞ *d)*⁴ to define the program structure of public media service providers, or to determine the content of their programs, services or broadcasts;
 - ☞ *e)* to give the executive directors of public media service providers instructions in respect of the employer's rights conferred upon them;
 - ☞ *f)* to adopt a decision in any matter that is conferred under the competence of another organization or the executive directors of public media service providers by this Act.

1 Amended by Paragraph *c*) of Subsection (2) of Section 125 of Act CCLII of 2013.

2 Amended by Paragraph *d*) of Subsection (2) of Section 125 of Act CCLII of 2013.


3 Amended by Paragraph *e*) of Subsection (2) of Section 125 of Act CCLII of 2013.

4 Established under Subsection (34) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

(2)¹ The Public Foundation's Board of Trustees shall not be authorized to expand its powers and authorities defined in Section 90, including the founder's rights specified under the provisions of the Civil Code governing business associations, which are not listed under Section 90.

Operation of the Board of Trustees

Section 92

 (1) The meetings of the Board of Trustees shall take place monthly, or as often as is necessary to discharge its responsibilities. The executive directors of the public media service providers affected shall be invited to attend the discussion of any agenda items relating to General Meeting issues. The chairperson of the Board of Trustees is required to call an extraordinary meeting of the Board of Trustees when so requested by the majority of the members of the Board of Trustees presented together with the agenda within eight days. In the event of non-compliance the members lodging the request shall be entitled to convene the extraordinary meeting collectively.

(2) Members of the Board of Trustees - including the chairperson of the Board of Trustees - shall have equal voting rights. In the case of a tie vote, the chairperson's vote 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 resolutions by a simple majority of the votes of its members and the chairperson, unless an act stipulates otherwise.

(5) The chairperson of the Board of Trustees shall draw up the agenda of the meeting and shall also preside over the meeting. Any member may make a proposal as to the items of the agenda in writing, in advance, and the meeting shall decide whether or not to accept them.

Remuneration of the Chairperson and Members of the Board of Trustees

Section 93

The chairperson of the Board of Trustees is entitled to sixty-five percent of the basic remuneration of state secretaries; members of the Board of Trustees are entitled to forty percent of the basic remuneration of state secretaries, plus expenses up to maximum fifty percent of said remuneration. Additional rules for the reimbursement of expenses shall be laid down in the Public Foundation's Organizational and Operational Regulations.


Financial Management of the Public Foundation

Section 94

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

- a) financial contribution from the Fund to finance operations;
- b) the proceeds from the assets of the Public Foundation;
- c) income from the utilization of assets managed by the Public Foundation;
- d) other receipts serving the foundation's purposes (subsidies and target subsidies from the central budget, payments made to the foundation).

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

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

(3) The Public Foundation may not engage in any business operations, may not establish any business association, may not acquire shares in other existing business associations, and is not entitled to establish foundations.

(4)²

¹ Amended by Paragraph e) of Subsection (2) of Section 125 of Act CCLII of 2013.

² Repealed by Paragraph a) of Subsection (2) of Section 38 of Act LXVI of 2011, effective as of 1 July 2011.

Chapter III

THE PUBLIC SERVICE CODE AND THE PUBLIC SERVICE BOARD

The Public Service Code

Section 95

➡ (1) The Public Service Code (hereinafter referred to as "Code") contains - pursuant to this Act - the basic principles governing public media services and an in-depth definition of public service objectives in accordance with this Act. The Code may contain general provisions as well as specific content relating to individual public media service providers. Fundamentally, the Code is meant to provide guidance to public media service providers regarding the proper operating principles to be adopted by public media services providers within the framework of the Act.

➡ (2) The Code shall initially be adopted by the Media Council with the consent of the Board of Trustees and with a view to the opinion of the executive directors of public media service providers.

➡ (3) The Code may be amended by the Public Service Board - following its first approval in accordance with Subsection (2) - with the Board of Trustees' consent. Apart from the Public Service Board, an amendment may be requested also by the Board of Trustees and executive directors of public media service providers.

(4) The Médiatudományi Intézet (*Media Institute*) operating under the aegis of the Media Council shall provide professional advice in relation to the drafting and amendment of the Code as may be required.

(5) The Public Service Board is assigned to monitor compliance with the rules set out in the Code.

Section 96

The Code shall *inter alia* regulate the following:

- a) the means and methods of attaining the statutory objectives defined for public media services;
- b) the basic principles of independence from political parties and political organizations;
- c) the principles regarding the presentation of news and political programs on current issues and disputed matters in a broader perspective and in an objective and unbiased manner, and the presentation of the diversity of opinions and views;
- d) the criteria for fostering culture in the native language;
- e)¹ the guidelines for presenting the culture and life of the nationalities living in Hungary;
- f) the principles for the objective presentation of cultural, scientific, ideological and religious diversities;
- g) the principles for performing tasks with regard to the protection of minors;
- h) the principles relating to codes of conduct governing the broadcasting of commercial announcements, advertising and the sponsorship of programs;
- i) the principles for the broadcasting of public service announcements;
- j) the principles relating to the extent and guarantees of the editorial independence and responsibility of program makers employed by public media service providers, and the guarantees of their participation in laying down principles with respect to making and editing of programs;
- k) the principles of keeping members of the Hungarian nation living abroad adequately informed on the one hand, and providing adequate information about them on the other;
- l) the principles of formulating basic codes of conduct applying to staff members - beyond the scope of this Act -, with special regard to those employed in news and political programs.

The Public Service Board

¹ Amended: by subparagraph i) paragraph (1) Section 224 of Act CLXXIX of 2011. In force: as of 1. 01. 2012.

Section 97


(1) The Public Service Board consists of fourteen members, its chairperson is elected from among its own ranks and - unless this Act provides otherwise - adopt its decision with simple majority. In the case of a tie vote, the chairperson's vote shall be decisive.


(2) Members of the Public Service Board shall be delegated by the nominations bodies specified in Schedule No. 1 to this Act for a term of three years, by way of the procedure specified therein. Members may be delegated on more than one occasion. The failure of any of the said bodies to exercise their right of delegation shall not impede the operation of the Public Service Board.

(3) Public Service Board members shall be delegated at least thirty days prior to the end of the previous member's mandate.

(4)¹ The administrative functions of the Public Service Board shall be performed by the office of the Public Foundation; its expenses - including the remuneration of the chairperson and its members - shall be covered by the Public Foundation.

(5)² The Public Service Board's chairperson is entitled to forty percent of the basic remuneration of state secretaries, and its members are entitled to twenty-five percent of the basic remuneration of state secretaries. Additionally, the chairperson and members are entitled to claim reimbursement for their travel expenses, to the extent required for discharging their duties on the Board's behalf. The provisions set out in Section 118 on conflicts of interest shall also apply to the chairperson and members, with the exception of Paragraph e) of Subsection (1) of Section 118.

 (6) The Public Service Board shall exercise public control over public media service providers.

 (7) The Public Service Board shall monitor compliance with public service criteria on a regular basis, and shall exercise supervision over public media service providers as governed under Subsections (8)-(13), in respect of the implementation of the relevant provisions of this Act.

 (8) The executive directors of public media service providers shall give account once a year, by 28 February of the following year, in a report containing their opinion as to whether the media service provider they control has satisfied the requirements set out in this Act regarding the objectives and basic principles of public media services.


(9) The Public Service Board shall debate the report and shall adopt a decision with simple majority of its acceptance thereof.

(10) If the Public Service Board decides not to accept the report - after hearing the executive director in person -, it shall have the option to make a proposal to the Board of Trustees for having the executive director's employment terminated. The approval of this proposal requires two-thirds majority of the members of the Public Service Board.

(11) The Board of Trustees shall put on its agenda and discuss the proposal for having the executive director's employment terminated within eight days. The executive director and the chairperson of the Public Service Board shall be invited to the meeting of the Board of Trustees.

(12) The Board of Trustees shall render its decision concerning the proposal for having the executive director's employment terminated subject to simple majority of the members attending. The decision shall be reasoned.

(13) If, despite of the proposal, the Board of Trustees did not terminate the executive director's employment, in three months time the Public Service Board shall once again put on its agenda a new hearing of the executive director.

 (14) If the executive director's employment was terminated due to his failure to ensure compliance with public service criteria, such person may not be nominated for a period of ten years for the office of executive director of a public media service provider.

Chapter IV



PUBLIC MEDIA SERVICE PROVIDERS

¹ Established by Subsection (35) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

² Established by Subsection (36) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

General Provisions

Section 98

👉 (1) Public media service providers are responsible for implementing the objectives of public media services as defined in Section 83. Public media service providers shall discharge their responsibility collectively, by coordinating their actions as much as possible, while retaining their autonomy.

👉 (2)¹ The provisions of the Civil Code governing business associations, pertaining to limited companies shall also apply to public media service providers, subject to the exceptions set out in this Act, including the common provisions relating to business associations as well.

👉 (3) Each public media service provider shall have one non-marketable share.

(4)² Public media service providers shall be exempt from the payment of media service license fees.

(5)³ Public media service providers shall provide at least one radio and at least one audiovisual linear public media service for the vast majority of the population. Service provided for the vast majority of the population means, in the case of radio media services, media services disseminated by terrestrial transmission if it can be received by eighty percent of the population in the 87.5-108.0 MHz frequency band, or by at least ninety percent of the population in the case of audiovisual public media services.

(6)⁴ In addition to nation-wide media services, public media service providers shall be allowed to provide local and regional media services as well.

(7)⁵ As regards the media service facilities used for certain public media services - including the transfrontier transmission of media services as well - a decision shall be adopted by the Media Council in consideration of financial and media policy aspects and where considered technically and economically feasible, following consultation with the Fund's executive director.

👉 (8)⁶ Having regard to public audiovisual and radio media services, the Media Council shall have powers to review - following consultation with the Fund's executive director, and taking into account the criteria of feasibility for the purposes of next year's budget and for the implementation of public service objectives defined in Section 83 of this Act - on an annual basis the system of public media services, and may decide whether to maintain the media services provided by public media services previously, or to make changes therein.

👉 (9)⁷ As regards the motor vehicles of the public media service provider and the Fund operated for the purpose of programming and used in the production of programs, the regulations on restrictions relating to the use of motor vehicles on public roads in the territory of Hungary in terms of gross weight, axle load and size, and the related obligation of payment of fees and charges, furthermore, the time limitations set out therein shall not apply to such vehicles in the interest of facilitating the objectives of public media services, to the extent required.

Presentation of Nationalities in Public Media Services⁸

Section 99

¹ Amended by Paragraph f) of Subsection (2) of Section 125 of Act CCLII of 2013.

² Enacted by Subsection (37) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

³ Enacted by Subsection (37) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

⁴ Enacted by Subsection (37) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

⁵ Enacted by Subsection (37) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

⁶ Enacted by Subsection (37) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

⁷ Enacted by Section 13 of Act CVII of 2014, effective as of 1 January 2015.

⁸ Amended: by subparagraph j) paragraph (1) Section 224 of Act CLXXIX of 2011. In force: as of 1. 01. 2012.

(1)¹ All nationalities recognized by Hungary are entitled to foster their culture and native language, and to be regularly informed in their mother tongue by way of specific programs disseminated by the public service media.


(2)² The task defined under Subsection (1) shall be fulfilled by public media service providers via nation-wide or - in light of the specific geographic location of nationalities - via local media services by disseminating programs consistent with the needs of the nationalities in question, or via audiovisual media services with subtitling or broadcasting in multiple languages, as it may be necessary.


(3)³ The nation-wide self-government bodies of nationalities, or failing this their national organizations, shall decide independently concerning the guidelines for the allocation of the transmission time made available to them by the public media service provider. The public media service provider shall abide by these guidelines, which may not affect the contents and editorial principles of the program.


Public Service Media Assets and the Public Media Service Provider_s Archives⁴





Section 100⁵


 (1) All ownership rights and obligations associated with public service media assets which are owned by the State shall be exercised by the Fund, with the exceptions set out under Subsections (2), (5) and (6).


 (2) The Fund may not dispose of, transfer or encumber public service media assets in any way, either in full or in part. This prohibition, however, shall not prevent the utilization of copyright, neighboring rights and use rights that may exist on specific components of public service media assets.

 (3) The Fund shall provide for the storage, safekeeping and utilization of public service media assets, as well as physical data carriers containing works and other performances covered by Act LXXVI of 1999 on Copyright (hereinafter referred to as "_Copyright Act"), acquired by the public media service provider and the Fund, which, however, are not considered to comprise a part of public service media assets (hereinafter referred to collectively as "_Archive"). The Archive is treated as a public collection covering the entire territory of the country.

 (4) The detailed provisions relating to archiving as to preserving, maintaining and using the Archive shall be defined by the Fund_s executive director by way of a regulation, subject to the agreement of the Media Council.

 (5) The Fund may release to the public media service provider works classified as public service media assets - for which no special authorization and no payment of any fee is required - for the purpose of fulfillment of its public service remit, such as in particular broadcasting to the public, as well as authentic works and other intellectual property falling outside the scope of public service media assets, but in respect of which the Fund has use rights. The public media service provider is given the right to use free of charge any public service media asset in its management.

 (6) Copyrighted works and other intellectual property in the Archive, which are considered public service media assets, as well as those falling outside the scope of public service media assets, shall be used by the public media service provider within the framework of the Copyright Act as well as the terms and conditions of agreements concluded with the proprietors of copyrights and neighboring rights.

 (7) Unless otherwise agreed, Subsection (3) of Section 30 of the Copyright Act shall not apply to the public media service provider_s acquisition of use rights relating to public service media asset in its management.

1 Amended: by subparagraph k) paragraph (1) Section 224 of Act CLXXIX of 2011. In force: as of 1. 01. 2012. Amended: by subparagraph c) Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.

2 Amended: by subparagraph l) paragraph (1) Section 224 of Act CLXXIX of 2011. In force: as of 1. 01. 2012.

3 Amended: by subparagraph m) paragraph (1) Section 224 of Act CLXXIX of 2011. In force: as of 1. 01. 2012.


4 Established by Section 14 of Act CVII of 2014, effective as of 1 January 2015.








5 Established by Section 14 of Act CVII of 2014, effective as of 1 January 2015.


Strategic Plan on the Remit of Public Service Media and Measuring Public Value¹





Section 100/A²

 (1) The public media service provider shall prepare a comprehensive strategic plan for each year, by 31 May of the previous year, so as to identify and assess the direction of potential improvements in the quality of public media services, covering also the means of such improvements, including, but not limited to, the following criteria:

-  a) media market trends internationally and domestically;
-  b) technological progress and innovation;
-  c) conclusions of the revision and monitoring of public value provided for in Section 100/B;
-  d) the Public Service Code;
-  e) the opinion of the Public Service Board;
-  f) findings of the assessment of public value;
-  g) audience rating, in relation to listenership and viewership, on other data on media consumption.


 (2) In addition to the comprehensive strategic plan, the public media service provider shall prepare strategic plans on an ad hoc basis also in connection with certain specific aspects of media services, to the extent deemed necessary for the purposes of public media services.


 (3) The strategic plans referred to in Subsections (1)-(2) shall be prepared in due consideration of the provisions of this Act, the stipulations of the Code, and the relevant recommendations and directives of the European Union and the Council of Europe.


 (4) The strategic plans referred to in Subsections (1)-(2) shall serve as a basis for the functioning of public media services, and for cooperation between the public media service provider and the Fund.



Section 100/B³

 (1) The public media service provider shall examine and review the public nature and value of its services, and the impact they may have on the diversity of the media market.

 (2) The detailed rules for the examination of public value shall be decreed by means of regulation, to be approved collectively by all of the organizations and bodies affected, upon the initiative and coordination of the public media service provider.

 (3) The regulation provided for in Subsection (2), including any subsequent amendment, shall be drawn up in due consideration of the provisions of this Act, the stipulations of the Code, and the relevant recommendations and directives of the European Union and the Council of Europe.





Special Tasks of the National News Agency



Section 101

 (1) The Magyar Távirati Iroda Zártkörűen Működő Nonprofit Részvénytársaság (*Hungarian News Agency*), functions as the national news agency and shall discharge the following public service responsibilities in addition to meeting the objectives defined in Section 83:

 a) publishing news items, news reports, photographs, data carriers, background materials, graphic images and documentaries about events of general interest, taking place in Hungary and elsewhere;

 b) providing access to all news items and news reports, knowledge of which may be necessary for enabling the general public to effectively represent the rights and interests of the community and the individual alike;

¹ Enacted by Section 15 of Act CVII of 2014, effective as of 1 January 2015.

² Enacted by Section 15 of Act CVII of 2014, effective as of 1 January 2015.

³ Enacted by Section 16 of Act CVII of 2014, effective as of 1 January 2015.

- ☞ c) participating in conveying public announcements made by government bodies and other organizations, and by private individuals to the printed and electronic media;
 - ☞ d) reporting regularly and objectively the actions of parliamentary and non-parliamentary parties, major civil organizations, the Government, public administration entities, municipalities, courts and prosecution offices, and publishing official statements related to the above;
 - ☞ e) providing information regularly and objectively to foreign viewers on major events taking place in Hungary and on series of events of key importance taking place in Hungary;
 - ☞ f)¹ publishing reports regularly and objectively on the lives of ethnic Hungarians living outside the borders of Hungary, and providing news service to them;
 - ☞ g)² reporting regularly and objectively on the life of nationalities living in Hungary;
 - ☞ h) disseminating information at time of elections, as laid down in specific other act;
 - ☞ i) discharging duties defined in specific other act in a state of distress or state of emergency;
 - ☞ j) providing for the long-term preservation and protection of cultural values and original documents of historical importance that might come into their possession in the course of performing their activities;
 - ☞ k) taking part in the work of international news agency organizations.
- ☞ (2) With a view to discharging its public service responsibilities, the national news agency shall operate a network of correspondents:
- ☞ a) covering all counties of Hungary as well as the capital city of Budapest;
 - ☞ b) covering all areas within the Carpathian Basin with an ethnic Hungarian population;
 - ☞ c) abroad as the nation's international relations and interests may require.
- ☞ (3) 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 bodies, or in connection with operations for the protection of the nation's territory by air defense and air forces of the Hungarian Army, Parliament, the Defense Council, the President of the Republic and the Government, as well as the persons and organizations defined by law may order the national news agency according to Subsection (6) of Section 32 to disseminate information to the extent necessary.
- ☞ (4) The national news agency shall produce news programs under exclusive right for other public media service providers, and shall operate an integrated news hub for public media service providers, in tandem with other online press products of public media service providers, as well as their downloadable media services.

☞ Electing the Executive Directors of Public Media Service Providers

Section 102

- ☞ (1)³ Public media service providers shall be managed by the executive director; there is no board of directors. The executive director shall - within the scope of this Act - exercise all the powers which are delegated under the provisions of the Civil Code governing business associations to the board of directors of private limited companies. The executive director shall be employed under a contract of employment, and his remuneration shall be established in a monthly amount payable by the public media service provider under his control.
- ☞ (2) The Board of Trustees shall exercise employer's rights over the executive directors of public media service providers, including the appointment of executive directors and the termination of their employment. The nomination and appointment of executive directors takes place by the following procedure:
- ☞ a) the chairperson of the Media Council proposes two executive directors to the Media Council in relation to each public media service provider;
 - ☞ b) if the Media Council approves of these candidates it shall make a proposal to the Board of Trustees to select one of the candidates nominated;

1 Amended: by subparagraph i) Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.

2 Amended: by subparagraph n) paragraph (1) Section 224 of Act CLXXIX of 2011. In force: as of 1. 01. 2012.

3 Amended by Paragraph g) of Subsection (2) of Section 125 of Act CCLII of 2013.

☞ c) if the Media Council refuses to approve either of the candidates the chairperson of the Media Council has nominated, the chairperson of the Media Council shall nominate a new candidate; the Media Council shall make a proposal toward the Board of Trustees if it has approved two candidates;

☞ d) the Media Council may also propose certain substantive elements to be included in the executive director_s employment contract;

☞ e) in the first round of voting the Board of Trustees shall render its decision concerning the executive director_s appointment subject to two-thirds majority of all its members, including the chairperson;

☞ f) if the Board of Trustees is unable to elect with two-thirds majority one of the two candidates within thirty days from the time the Media Council has made the nomination, a new nomination procedure shall be initiated;

☞ g) in the new nomination procedure two candidates shall be nominated for each public media service provider;

☞ h) in the voting following the new nomination procedure the Board of Trustees shall render its decision concerning the executive director_s appointment by simple majority of all its members, including the chairperson.

(3) The Board of Trustees shall come to a decision concerning the appointment of the executive director and the terms and conditions of his employment contract - drawn up with a view to the Media Council_s proposal - by taking a vote. The executive director_s contract of employment shall be made for an indefinite period. If the elected executive director refuses to accept the conditions specified in the draft contract of employment as proposed by the Board of Trustees, the Board of Trustees shall repeat the voting process concerning the contract of employment with amended terms and conditions. If there is no agreement concerning the terms and conditions of the contract of employment, a new executive director shall be elected.

(4) The executive director_s employment shall terminate in the following cases:

a) upon dismissal;

b) by notice according to the contract of employment;

c) upon death;

d) in the event regulated by Subsections (10)-(12) of Section 97, if the Board of Trustees decides on termination on a recommendation by the Public Service Board.

(5) The executive director shall be dismissed if:

a) he is placed under guardianship affecting his legal capacity;

b) he was indicted in criminal proceedings and was found guilty by the court_s final verdict carrying a sentence of imprisonment;

c) he is unable to fulfill his vested responsibilities for three consecutive months for reasons beyond his control;

d) he is in breach of conflict of interest rules, and fails to eliminate such conflict of interest within thirty days of the time of their emergence;

e) he has been restrained by court order from exercising his profession, or banned from public functions.

(6) In the event of dismissal, the Board of Trustees shall declare the employment terminated.

☞ (7) The executive director shall have the right to appoint two deputy directors. The conditions for the contracts of employment of the deputy directors shall be approved by the Board of Trustees.

Section 103

(1) The candidate executive directors of public media service providers must have no prior criminal record, must be Hungarian citizens, must have a diploma of higher education and at least five years of professional experience.

(2) Professional experience shall cover activities in program production and broadcasting, activities in information services, as well as any related technical, legal, administrative, financial, cultural, scientific and public survey activities.

(3)¹ Persons who held the offices of President of the Republic, Prime Minister, member of the Government, state secretary, state secretary for public administration, deputy state secretary, Member of Parliament, spokesman for the nationality, lord mayor or deputy lord mayor, officer of the national or regional organization of a political party in the preceding two years may not be appointed as the executive directors of public media service providers.


(4) The relevant provisions of the Labor Code shall apply regarding the verification that executive directors of public media service providers are required to provide as to having no prior criminal record, and to the related legal consequences.

Conflict of Interest Rules Applicable to the Executives Officers of Public Media Service Providers

Section 104

(1) Throughout the term of their employment, the executive director and executive employees of a public media service provider shall be subject to the conflict of interest rules defined under Paragraphs *a)-c)* and *f)* of Subsection (1) of Section 118, pertaining to the Authority_s President, Vice-President, executive director, deputy director, as well as the grounds for exclusion specified in Subsection (3) of Section 118, as the case may be.

(2) In addition to the conflict of interest rules specified in Subsection (1), the executive director and executive employees of the public media service provider, and their close relatives may not be a member holding an ownership interest in a business association, or the executive officer or supervisory board member of a business association which is engaged in any business relationship with the public media service provider that employs the executive director or the executive employees in question. If this provision is breached by a close relative of the public media service provider_s executive director or executive employee, it shall be construed as a conflict of interest on the executive director_s or executive employee_s part, and shall be sanctioned as appropriate.

 (3)² During his term in office the executive director and executive employee of a public media service provider may not pursue any other gainful activity with the exception of scientific, educational, literary, artistic and other activities under copyright protection and the activities of registered foster carers, and is not entitled to any fees from the public media service provider under his direction on these grounds.

(4) The executive director of a public media service provider shall, prior to concluding the contract of employment, make a written statement declaring that no conflict of interest prevails in respect of him/her.

(5) The executive director or executive employee of a public media service provider may not enter into an agreement on behalf of the public media service provider in which he or a close relative of his or a business entity features as the other party, in which he or his close relative holds an indirect or direct ownership interest, or some other right and interest, or personal stake. Contracts within the sphere of interest of staff members subject to the aforementioned restriction may not be concluded by any other staff member of the public media service provider either.

Section 105

(1) The executive director shall direct the public media service provider in accordance with this Act and other legislation, the Public Foundation_s and the public media service provider_s charter document, and the resolutions of the Board of Trustees.

Accordingly, the executive director shall:

- a)* decide upon the programming policy;
- b)* draw up the organizational and operational regulations;
- c)* provide for the implementation of the Public Service Code;
- d)* draw up and submit to the Board of Trustees for approval the annual financial management plan, and provide for the implementation thereof;

¹ Amended by paragraph (26) Section 158 of Act XXXVI of 2012.

² Established by Section 74 of Act CI of 2014, effective as of 1 January 2015.

- e) prepare the balance sheet and the profit and loss account, and submit them to the board of trustees for approval;
 - f) submit - in accordance with Paragraphs p)-q) of Subsection (1) of Section 90 - the proposals concerning the authorization of contracts, as well as proposals requiring prior approval;
 - g) exercise employer_s rights in relation to staff members of the public media service provider, including the employment of the deputy directors;
 - h) provide for the preparation of all other proposals which are prescribed by this Act and the Public Foundation_s charter document, or the resolution 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 further training in the media profession regularly;
 - j) have a seat on the Public Service Fiscal Council;
 - k)¹ exercise all the rights, with the exceptions set out in this Act, which are delegated by the provisions of the Civil Code governing business associations to the competence of the board of directors of private limited companies.
- (2) The executive director of a public media service provider shall receive no remuneration from the Public Service Foundation under any title, other than the allowances specified in his contract of employment.



Supervisory Board of Public Media Service Providers

Section 106

- (1) The management of public media service providers shall be supervised by a Joint Supervisory Board (hereinafter referred to as "Board") vested with powers to request information from the executive directors and the employees of public media service providers, to inspect the books, current accounts, documents and cash holdings of the public media service providers at any time, or to have them inspected by an expert at the expense of the public media service providers.
- (2) The Board is comprised of a chairperson and four members.
- (3) The chairperson and members of the Board shall be appointed - other than the member delegated by the employees - by the Board of Trustees for the term and under the conditions set out in the Public Foundation_s charter document.
- (4) The Board of Trustees shall determine the remuneration of the chairperson and members of the Board.
- (5) The Board shall establish the rules of its operation itself, and its rules of procedure shall be approved by the Board of Trustees.
- (6) The Board shall inspect all reports to be presented to the Board of Trustees which relate to matters of a financial nature of public media service providers falling within the competence of the general meeting of the Board of Trustees.
- (7) The departments of internal control of public media service providers shall be under the direction of the Board.
- (8)² Otherwise, the provisions of the Civil Code on business associations, the Public Foundation_s charter document and the Organizational and Operational Regulations shall apply to the organizational structure and operation of the Board.



The Auditor of Public Media Service Providers

Section 107

- (1) The joint auditor of public media service providers 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.


¹ Amended by Paragraph h) of Subsection (2) of Section 125 of Act CCLII of 2013.


² Amended by Paragraph i) of Subsection (2) of Section 125 of Act CCLII of 2013.

(2)¹ The powers and responsibilities of the auditor shall be defined in the charter documents of the public media service providers, within the framework of the provisions of the Civil Code governing business associations.

Funding and Financial Management of Public Media Service Providers


Section 108


 (1) The Fund supports the functioning of public media service providers from its resources defined in Subsection (3) of Section 136, supports and is directly involved in the production, ordering and purchasing of their programs, also their information and other activities.


 (2) The decision for allocating the funds made available pursuant to Subsection (1) among public media service providers lies with the Public Service Fiscal Council (hereinafter referred to as "Council").


 (3) The Council is composed of seven members as follows:


 a) the executive directors of public media service providers;


 b) the executive director of the Fund;


 c)² two members delegated by the Chairperson of the Állami Számvevőszék (*State Audit Office*). The remuneration of these members shall be determined by the executive director of the Fund; the provisions of Section 104 and Section 118 relating to conflicts of interest shall also apply.

 (4) The Council shall decide by 30 September each year concerning the distribution of funds available for the programs and public service responsibilities of public media service providers in the following year as defined under Subsection (1). Its decision shall be made taking into account the public service objectives specified in this Act and the Code, as well as the special tasks conferred upon the public media service providers. The Council shall adopt its decisions with a simple majority, and shall publish its decisions on the Fund's website. In particularly justified cases the Council may subsequently amend its decision by voting subject to two-thirds majority. An amendment request may be lodged by the Fund's executive director.

 (5) The Council may be convened by the Fund's executive director - who is also the Council's chairperson - by 30 June of each year at the latest. The Council shall determine its own operating rules and procedural rules within the framework of this Act.

 (6)³ The Fund shall - acting in the name and on behalf of public media service providers - enter into agreements for the dissemination of the linear media services of public media service providers from its own budget. The provisions of Subsection (8) shall apply to broadcasting agreements on the basis of which the public media service provider receives any income in exchange for the authorization of broadcasting.

 (7) The executive directors of public media service providers shall report to the Board of Trustees concerning the activities of the media service provider under his management, covering also the approval of the balance sheet and the profit and loss account. The executive director's report shall be submitted to the Board of Trustees together with the opinion of the Supervisory Board of public media service providers.


 (8)⁴ Public media service providers may engage in business operations if it serves to promote their public service objectives. Any profits generated may be used exclusively to finance the provision or development of public media services. The right to engage in business operations may be transferred to the Fund, without consideration in light of the Fund's activities performed in support of the public service media in general. The Fund must use the proceeds therefrom for implementing the objectives of public media service providers.


¹ Amended by Paragraph j) of Subsection (2) of Section 125 of Act CCLII of 2013.


² Established by Subsection (40) of Section 64 of Act CVII of 2011, effective as of 20 August 2011.


³ Established by Subsection (41) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.


⁴ Established by Subsection (42) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.


 (9)¹ Public media service providers may not have an ownership interest in other media service providers, and may not set up foundations. Business associations in which a public media service provider has a qualifying holding may undertake to provide public media services.

 (10) Public media service providers shall keep a separate register for their contracts. The corporate details necessary for the identification of the contracting party shall be regularly updated in the records, as well as the services and consideration to be provided by the contracting parties.

 (11)² Public media service providers shall enjoy individual duty exemption and shall not be liable to pay corporate taxes. The Fund and public media service providers shall be collectively treated according to Section 8 of Act CXXVII of 2007 on Value Added Tax as affiliated companies, where the affiliation of another person shall be permissible only if so provided by specific other act.

 (12) Procurements taking place directly between the Fund and a public media service provider shall not be covered by the Public Procurements Act.


 (13) Pursuant to the guidelines set forth by Parliamentary Resolution 109/2010 (X. 28.), the Media Council is responsible for determining the detailed rules for the utilization and management of the assets transferred, including the conditions of use of certain specific assets by public media service providers with a view to discharging their respective public service functions.


 (14)³


Special Labor Law Provisions Relating to Employees Working in Public Media Services⁴




Section 108/A⁵

 (1) The provisions of Act I of 2012 on the Labor Code (hereinafter referred to as "Labor Code") shall apply to the employees of the public media service provider and the Fund subject to the exceptions set out in Subsections (2)-(5) hereof, and in Section 108/B.

 (2) By its nature, the operations of the public media service provider and the Fund relative to media content services and news agency services are carried out also on Sundays and public holidays.

 (3) In the case of employees, in calculating the length of working time ordered by the employer having regard to the particular nature of those jobs, and in determining whether the job in question is a stand-by job, the length of work (work phases) actually performed in connection with a particular activity shall be taken into consideration.


 (4) Subsection (3) of Section 101 of the Labor Code shall not apply in the case of employees.


 (5) A full-time employee may be ordered to work not more than four hundred hours in any given calendar year in special work duty under collective agreement.



Section 108/B⁶

 (1) Jobs in public media services, and in news agency services provided by the public media service provider are provided for in specific other legislation.

 (2) The persons working in jobs provided for by the legislation referred to in Subsection (1) shall be employed under flexible working arrangement. Where the employee is required to be available on stand-by duty or work to be performed at a particular time or during a particular period specified by the employer, it shall not affect the nature of the working arrangement.

 (3) The parties may derogate from the flexible working arrangement specified in Subsection (2) in an employment contract, by means of agreement for future considerations.

¹ Established by Subsection (43) of Section 64 of Act CVII of 2011. Amended by Paragraph k) of Subsection (2) of Section 125 of Act CCLII of 2013.

² Established by Subsection (1) of Section 7 of Act XXXI of 2011, effective as of 2 April 2011.

³ Repealed by Paragraph a) of Subsection (2) of Section 38 of Act LXVI of 2011, effective as of 1 July 2011.

⁴ Enacted by Section 23 of Act CVII of 2014, effective as of 1 January 2015.

⁵ Enacted by Section 23 of Act CVII of 2014, effective as of 1 January 2015.

⁶ Enacted by Section 23 of Act CVII of 2014, effective as of 1 January 2015.

☞(4) As regards the persons working in jobs provided for by the legislation referred to in Subsection (1), the number of hours to be applied in the average for each working day in a calendar year shall be determined by the employer as working time needed for preparations at a place other than the workplace having regard to full-time employees. In the case of part-time workers, the working time needed for preparations at a place other than the workplace shall be taken into account in the proportion of part-time work fixed in the employment contract to full-time employment. Preparations at a place other than the workplace may be substituted by the employer, if able to provide the means necessary at the workplace during working time.

☞(5) As regards the persons working in jobs provided for by the legislation referred to in Subsection (1) hereof, in the allocation of paid annual leave the employer - by way of derogation from Subsection (2) of Section 122 of the Labor Code - shall not be obligated on an exceptional and duly justified basis to honor the employee_s request relating to one quarter of his vested vacation time, if it would seriously jeopardize the normal and business-like functioning of the employer, of which the employer shall inform the employee without delay, and shall specify the time when the paid leave can be allocated.

PART FOUR

SUPERVISION OF MEDIA SERVICES AND PRESS PRODUCTS

Chapter I

The Nemzeti Média- és Hírközlési Hatóság (*National Media and Infocommunications Authority*)

General Provisions

Section 109

(1)¹ The Nemzeti Média- és Hírközlési Hatóság (*National Media and Infocommunications Authority*) (hereinafter referred to as "*Authority*") is an autonomous regulatory agency subordinated solely to the law.

(2) The Authority contributes to implementing the Government_s policy - as laid down by legislation - in the area of frequency management and communications. Responsibilities may only be prescribed for the Authority by acts or by legislation enacted under authorization of an act.

(3) Bodies of the Authority vested with independent jurisdiction are the President of the Nemzeti Média- és Hírközlési Hatóság (hereinafter referred to as "*President*"), the Media Council of the Nemzeti Média- és Hírközlési Hatóság and the Office of the Nemzeti Média- és Hírközlési Hatóság.

(4)² The President of the Authority shall give account of the Authority_s activities to Parliament on a yearly basis.

(5) In relation to the communications industry, the Authority shall be responsible - in observance of the objectives and basic principles laid down in the Act on Electronic Communications - to ensure that the communications market remains effective and efficient for present and future considerations alike, to protect the interests of providers of communications services and the end-users, to maintain fair and effective competition in the electronic communications sector, and to supervise the conduct of organizations and persons engaged in communications activities for compliance with the relevant legislation.

(6) The Authority shall exercise its powers and jurisdiction independently, in accordance with the law.

(7) The telecommunications regulatory powers of the Authority cannot be deprived.

¹ Established: by paragraph (3) Section 389 of Act CCI of 2011. In force: as of 1. 01. 2012.

² Established: by paragraph (4) Section 389 of Act CCI of 2011. In force: as of 1. 01. 2012.

(8)¹ The administrative duties of the Government relating to frequency management for non-civilian purposes shall be attended to by the Office.

(9)²

Section 110

For purposes of the communications sector and subject to specific other legislation, the Authority shall:

- a) make representations regarding legislative requests, requests for amendments and recommendations falling within its jurisdiction;
- b) assess and routinely analyze the electronic communications and the information technology market;
- c) continuously evaluate the status of the communications market and prepare comparative analyses;
- d) conduct market analysis;
- e) monitor compliance on the part of notified operators with their obligations, and shall take measures where necessary;
- f) administer the proceedings launched in connection with any infringement of communications regulations or disputes arising out of any breach of contract;
- g) discharge other regulatory tasks as specified in legislation in respect of electronic communications and postal services;
- h)³ within the scope of financial management, exercise - in accordance with this Act and other legislation - ownership rights on behalf of the Government related to radio frequencies and identifiers, and oversee the utilization of radio frequencies and identifiers;
- i) provide for regulatory and non-regulatory tasks defined by other legislation.

Section 110/A⁴

(1) The Authority shall develop its own human resources policy with a view to maintaining a qualified staff of experts with special knowledge and competencies required to carry out the tasks enumerated in Sections 109-110.

(2) The executive director and deputy directors, and the employees of the Authority shall work in a public service relationship, and - subject to the exceptions set out in this Act - their legal status shall be governed by the provisions of the Act on Public Service Officials pertaining to public employees.

(3) The President of the Authority shall define the functions of the jobs required to carry out the duties conferred upon the Authority, the necessary quantity of resources, and shall specify in the Authority's Organizational and Operational Regulations the jobs other than those mentioned in Subsection (2), which are filled by workers engaged under contract of employment.

(4) Within his scope of competence, which may not be transferred, the President of the Authority shall decide on the Authority's policy on base salaries, including non-wage benefits, and on the exceptions concerning the base salaries of public employees including any possible derogation.

(5) The President of the Authority may establish a special personal salary for public employees working in jobs requiring special knowledge, and also for those filling more than one management position. Special personal salary may be given to up to twenty per cent of the Authority's total staff, and may be revoked without explanation. The President of the Authority shall lay down the rules applicable upon the termination of the legal relationship of the persons working in the jobs specified above, containing certain restrictions in their subsequent employment, and shall define the detailed conditions of such rules in the appointment letters.

(6) The President of the Authority shall, under own authority, specify in the Authority's Public Service Policy the regulations relating to the staff performance appraisal system and the related premiums, to recruitment and selection policies, as well as to the elaboration and implementation of further education, training and special development programs.

1 Amended by Paragraph j) of Section 49 of Act XXXIX of 2014.

2 Repealed by Paragraph e) of Subsection (2) of Section 50 of Act XXXIX of 2014, effective as of 30 September 2014.

3 Amended by Paragraph c) of Subsection (1) of Section 50 of Act XXXIX of 2014.

4 Enacted: by Section 27 of Act LXVI of 2012. In force: as of 3. 07. 2012.

(7) The Authority is an autonomous regulatory agency, and as such is not required to disclose information concerning its human resources management operations.

The President and Vice-President of the Nemzeti Média- és Hírközlési Hatóság

Section 111

(1) The President shall:

- a) govern the Nemzeti Média- és Hírközlési Hatóság;
- b) perform the functions conferred upon the President by specific other legislation from the scope of powers defined in Section 110;
- c) submit the draft version of the Authority_s annual budget, and the annual budget report in accordance with Section 134;
- d) propose amendments to legislation concerning communications and media services;
- e) decide - pursuant to the Act on the Protection of Classified Information - on the classification of information processed by the Authority in the course of its activities.

(2) The President_s other functions shall include:

- a)¹ calling and presiding over the Media Council_s meetings, if elected as the chairperson of the Media Council;
- b)² making the necessary preliminary arrangements for Media Council meetings, if elected as the chairperson of the Media Council;
- c) appointment of the vice presidents and exercising employer_s rights, including dismissal and removal;
- d) appointment of the Office_s executive director and exercising employer_s rights, including dismissal and removal;
- e) appointment, dismissal and removal of the deputy directors on a recommendation by the executive director;
- f) appointment, dismissal and removal of the Media and Communications Commissioner, and exercising employer_s rights;
- g) approval of the Authority_s Organizational and Operational Regulations;
- h) representing the Authority, particularly when dealing and consulting with the European Commission and the regulatory authorities of other Member States;
- i) publishing, by 28 February each year, the Authority_s annual work schedule 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) laying down the guidelines each year for technical preparations;
- k) notifying the minister in charge of electronic communications concerning any developments likely to jeopardize the safety of communications, and shall make recommendations for the measures deemed necessary;
- l) taking action on behalf of the State in cases involving international organizations when requested;
- m) entering into an agreement with the consumer protection authority and with the competition authority each year in the name and on behalf of the Authority;
- n) proceeding in the second instance in the field of communications with respect to the regulatory cases of the Office as defined by law;

o)³

(3)-(5)⁴

(6) The President may not be instructed in any way with respect to his actions and decisions associated with discharging his duties and exercising his powers. The President may not instruct the Office to take a discretionary decision in respect of the Office_s regulatory affairs defined by law.

1 Established: by paragraph (1) Section 30 of Act LXVI of 2012. In force: as of 3. 07. 2012.

2 Established: by paragraph (1) Section 30 of Act LXVI of 2012. In force: as of 3. 07. 2012.

3 Repealed by Paragraph f) of Subsection (2) of Section 50 of Act XXXIX of 2014, effective as of 30 September 2014.

4 Repealed: by Section 9 of Act XXXIII of 2013. No longer in force: as of 5. 04. 2013.

Section 111/A¹

(1) The President is appointed by the Prime Minister for a term of nine years on a recommendation by the Prime Minister.

(2) The president candidate shall have the right to stand as a candidate in parliamentary elections, must have no prior criminal record, must not be restrained by court order from exercising the profession required for holding an executive office, and must have a university or college degree, and:²

a) at least five years of previous experience in the supervisory control of media services or press products, or in the supervisory control of the communications sector; or

b)³ specializing in media or communications,

ba) an academic degree recognized in Hungary, or

bb) at least ten years of experience in teaching in an institution of higher education.

(2a)⁴ The previous experience requirement referred to in Paragraph a) of Subsection (2) shall, in particular, be considered satisfied by the following:

a) regulatory activities at the Office or the Nemzeti Hírközlési Hatóság (*National Communications Authority*) in the field of communications in a management position or as an administrative officer;

b) participating in redress procedures relating to the decisions of the Office or the Nemzeti Hírközlési Hatóság in the capacity of a judge, public prosecutor or legal counsel;

c) work performed at the Országos Rádió és Televízió Testület (*National Radio and Television Board*) or its bodies, or at the Media Council relating to the supervision of media services in a management position or as an administrative officer;

d) participating in redress procedures relating to the decisions of the Országos Rádió és Televízió Testület or its bodies in the capacity of a judge, public prosecutor or legal counsel;

e) membership in the board of trustees of the Magyar Rádió Public Foundation, the Magyar Televízió Public Foundation or in the Hungária Televízió Public Foundation under Act I of 1996 on Radio and Television Broadcasting, or in the Board of Trustees referred to in Section 85.

(3) Following termination of his mandate, the President may not be appointed for a second term.

(4) The Prime Minister - before making the recommendation referred to in Subsection (1), at least sixty days prior to the expiry of the term of the incumbent President, or within fifteen days in other cases of termination of the presidential mandate - shall request the Public Service Board, the Nemzeti Hírközlési és Informatikai Tanács (*National Council for Communications and Information Technology*), and the nation-wide self-regulatory trade organizations or interest groups of communications service providers, media content providers, broadcasters and journalists existing for at least five years to make a recommendation for the person of the president candidate.

(5)⁵ The requested organizations shall make their recommendations in writing, and shall enclose the candidate's autobiography, taking due account of the professional requirements set out in Subsections (2) and (2a), including an explanation of the reasons for the recommendation. The requested organizations shall have the right to make public the name of their president candidate, subject to the prior consent of the person nominated. The Prime Minister shall consult with the requested organizations in person, or through a public official he has appointed, in order to discuss their recommendation.

(6) The Prime Minister shall make a recommendation upon consideration of the proposals made during such discussions.

Section 112

¹ Enacted: by Section 2 of Act XXXIII of 2013. In force: as of 5. 04. 2013.

² Amended: by subparagraph a) paragraph (3) Section 9 of Act CXXXI of 2013. In force: as of 1. 08. 2013.

³ Amended: by subparagraph a) paragraph (3) Section 9 of Act CXXXI of 2013. In force: as of 1. 08. 2013.

⁴ Enacted: by paragraph (1) Section 9 of Act CXXXI of 2013. In force: as of 1. 08. 2013.

⁵ Amended: by subparagraph a) paragraph (3) Section 9 of Act CXXXI of 2013. In force: as of 1. 08. 2013.

(1)¹ The President is entitled to appoint two vice presidents for an indefinite term. The provisions of Subsections (2) and (2a) of Section 111/A shall also apply to the appointment of vice presidents.

(2) The President shall be substituted by the vice president under the conditions laid down in the Organizational and Operational Regulations. The President shall have authority to delegate decision-making powers in the second instance upon the competent vice president, by means of an appropriately worded authorization. When acting within his delegated scope of authority, the vice president may not be instructed in any way in respect of the decisions made in the appellate process. Other functions of the vice president are defined by the Organizational and Operational Regulations.

(3) The President and the vice presidents shall be entitled to the same remuneration and benefits as the salary and benefits of ministers and state secretaries, respectively. 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 pertaining to the legal status of state secretaries as far as the vice presidents are concerned.

(4) The provisions applicable to public servants shall apply to the legal status of the President and the vice presidents with respect to social insurance. The duration of their term in office shall be recognized as spent in public service, and as service time for the purposes of eligibility for pension benefits.

(5) The President - immediately upon being appointed - shall produce official documentary evidence to show that he has no prior criminal record and that he is not restrained by court order from exercising the profession required for holding an executive office. If the President fails to provide proof as required for reason within his control, the legal consequences pertaining to conflicts of interest shall apply.

(6) The Prime Minister shall be authorized to process the personal data of the President obtained under Subsection (5) until the expiry of the President's term in office, and may call upon the President at any time to verify the data as specified in Subsection (5).

(7) As regards the vice president the provisions of Subsection (5) shall apply, with the exception that the entitlement referred to in Subsection (6) shall be exercised in respect of the vice president by the President.

Section 113

(1)² The mandate of the President shall terminate:

a) upon expiry of his mandate;

b) upon resignation;

c) upon death;

d)³ upon being dismissed by the President of the Republic in accordance with Subsection (2);

e) if not elected by Parliament as the chairperson of the Media Council within thirty days from the date of appointment, or, if the appointment is made on a date outside the Parliament session, within fifteen days after the beginning of the next session.

(2) The President of the Republic shall dismiss the President if:⁴

a) the President fails to resolve the conflict of interest specified under Subsection (1) of Section 118 within thirty days from the date of appointment or the date the conflict of interest actually occurs;

b) the President was indicted in criminal proceedings and was found guilty by the court's final verdict carrying a sentence of imprisonment or restraint from exercising the profession required for holding an executive office;

c) the President is placed under guardianship affecting his legal capacity;

d) the President fails to fulfill his vested responsibilities for more than six consecutive months for reasons within his control.

1 Amended: by subparagraph c) Section 8 of Act XXXIII of 2013. In force: as of 5. 04. 2013. Amended: by subparagraph b) paragraph (3) Section 9 of Act CXXXI of 2013. In force: as of 1. 08. 2013.

2 Established: by paragraph (2) Section 30 of Act LXVI of 2012. In force: as of 3. 07. 2012.

3 Amended: by subparagraph b) Section 8 of Act XXXIII of 2013. In force: as of 5. 04. 2013.

4 Amended: by subparagraph b) Section 8 of Act XXXIII of 2013. In force: as of 5. 04. 2013.

(2a)¹ The President of the Republic shall make the decision referred to in Subsection (2) based on the Prime Minister's recommendation.

(3) Following the termination of mandate under Paragraph *a*) or *b*) of Subsection (1) the President shall be entitled to severance pay of double the monthly remuneration in effect at the time of termination. If the President's time in office did not exceed three years, the restriction laid down in Subsection (8) shall apply for a period of six months following termination, with a severance pay of one month's remuneration.

(4)² The mandate of the vice president shall terminate:

- a*) upon resignation;
- b*) upon death;
- c*) upon being dismissed by the President in accordance with Subsection (5);
- d*) upon being recalled by the President in accordance with Subsection (6);
- e*) by mutual consent between the President and the vice president.

(5) The President shall dismiss the vice president if:

a) the vice president fails to resolve the conflict of interest specified under Subsection (1) of Section 118 within thirty days from the date of appointment or the date the conflict of interest actually occurs;

b) the vice president was indicted in criminal proceeding and was found guilty by the court's final verdict carrying a sentence of imprisonment or restraint from exercising the profession required for holding the office of vice president.

(6) The President may remove the vice president from office by way of revoking his appointment, for which no justification is required.

(7) Following the termination of mandate under Paragraph *a*) or *d*) of Subsection (2) the vice president shall be entitled to severance pay of double the monthly remuneration in effect at the time of termination. If the vice president's time in office did not exceed three years, the restriction laid down in Subsection (8) shall apply for a period of six months following termination, with a severance pay of one month's remuneration.

(8) The President and the vice presidents, for one year following termination of their mandate:

a) may not engage in employment relationship or any other form of work related relationship with a business association,

b) may not establish regular economic ties, as the executive officer or owner of a business association, with a business association, and

c) may not acquire any share in a business association, if any right or lawful interest of this business association was affected by a previous decision made in the capacity of president or vice president.

(9)³ In connection with the restriction of employment in the sector referred to in Subsection (8), the President and vice presidents shall be entitled to compensation - at the time of termination of their mandate - in an amount equal to the previous twelve months' net income - i.e. minus personal income tax - received from the Authority. The compensation shall be paid from the Authority's budget. The average compensation awarded as per the above shall be tax-exempt within the categories of indemnification. The same rule applies to the chairperson and members of the Media Council as regards the restriction set out in Subsection (9) of Section 129 applicable in connection with the termination of their mandate.

(10)⁴ If the vice president's mandate terminates according to Paragraph *d*) of Subsection (4), the provisions on the withdrawal of executive appointments in public service relationships shall apply regarding the termination of such mandate.

Office of the Nemzeti Média- és Hírközlési Hatóság

¹ Enacted: by Section 3 of Act XXXIII of 2013. In force: as of 5. 04. 2013.

² Established: by paragraph (2) Section 31 of Act LXVI of 2012. In force: as of 3. 07. 2012.

³ Enacted by Subsection (44) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

⁴ Enacted by Subsection (44) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

Section 114

(1) The Office is headed by the director general appointed by the President for an indefinite period.

(2) From the powers defined in Section 110, the Office shall exercise functions that are conferred upon the Office by specific other legislation, and shall attend to the duties conferred upon it by law, or by the President within the framework of this Act and other legislation.

(3) The Office shall extend technical support to the President, the vice presidents, the Media Council, including the members of the Media Council, in discharging their respective duties.

(4)-(5)¹

The Executive Director and Deputy Director of the Nemzeti Média- és Hírközlési Hatóság

Section 115

(1) The executive director shall be appointed by the President.

(2)² The provisions of Subsections (2) and (2a) of Section 111/A shall also apply to the appointment of the executive director.

(3) The executive director shall be entitled to the same remuneration and benefits as the salary and benefits of state secretaries.

(4) The executive director may not be instructed in any way in respect of the exercise of decision-making powers in the first instance.

(5)³ The mandate of the executive director shall terminate:

a) upon resignation;

b) upon death;

c) upon being dismissed by the President in accordance with Subsection (6);

d) upon being recalled by the President in accordance with Subsection (7);

e) by mutual consent between the President and the executive director.

(6) The President shall dismiss the executive director if:

a) the executive director fails to resolve the conflict of interest specified under Subsection (1) of Section 118 within thirty days from the date of appointment or the date the conflict of interest actually occurs;

b) the executive director was indicted in criminal proceedings and was found guilty by the court's final verdict carrying a sentence of imprisonment or restraint from exercising the profession required for holding an executive office.

(7) The President may remove the executive director from office by way of revoking his appointment, for which justification is required.

(8) The executive director, for one year following termination of his mandate:

a) may not engage in employment relationship or any other form of work related relationship with a business association,

b) may not establish regular economic ties, as the executive officer or owner of a business association, with a business association, and

c) may not acquire any share in a business association,

if any right or lawful interest of this business association was affected by a previous decision made in the capacity of executive director.

(9) Following the termination of mandate under Paragraph a) or d) of Subsection (5) the executive director shall be entitled to severance pay of double the monthly remuneration in effect at the time of termination. If the executive director's time in office did not exceed three years, the restriction laid down in Subsection (8) shall apply for a period of six months following termination, with a severance pay of one month's remuneration.

1 Repealed by Paragraph g) of Subsection (2) of Section 50 of Act XXXIX of 2014, effective as of 30 September 2014.

2 Amended: by subparagraph c) Section 8 of Act XXXIII of 2013. In force: as of 5. 04. 2013. Amended: by subparagraph b) paragraph (3) Section 9 of Act CXXXI of 2013. In force: as of 1. 08. 2013.

3 Established: by paragraph (3) Section 31 of Act LXVI of 2012. In force: as of 3. 07. 2012.

(10) As regards the executive director the provisions of Subsection (5) of Section 112 shall apply, with the exception that the entitlement referred to in Subsection (6) of Section 112 shall be exercised in respect of the executive director by the President.

Section 116

The executive director's responsibilities shall include:

- a) supervising the organizational and professional infrastructure of the Office, with the exception of organizational units reporting directly to the President, and shall serve as a deputy for the president in the management of the Office;
- b) performing the functions conferred upon the executive director by specific other legislation from the scope of powers defined in Section 110;
- c) providing for the effective operation of the Authority in terms of organizational hierarchy;
- d) making recommendations to the President for the appointment, dismissal or removal of the deputy directors, and exercising employer's rights in respect of his deputies and the Office's employees, with the exception of organizational units reporting directly to the President;
- e) providing for the publication of the information specified in this Act;
- f) attending the relevant sessions of the Media Council in an advisory capacity when invited by the chairperson of the Media Council;
- g) ascertaining that the Office provides technical support to the President, the vice presidents, the Media Council, including the members of the Media Council, in discharging their respective duties, to the extent and in the manner prescribed by the President, or in his capacity as the chairperson of the Media Council in respect of the Media Council and its members;
- h) discharging the powers and duties conferred upon him by the relevant legislation or by the President, or in his capacity as the President of the Authority and chairperson of the Media Council, within the framework of this Act.

Section 117

(1) The President has powers to appoint the deputy directors on a recommendation by the executive director. The number of deputy directors and their functions shall be governed by the Authority's Organizational and Operational Regulations.

(2) The deputy director candidate shall have the right to stand as a candidate in parliamentary elections, must have no prior criminal record, must not be restrained by court order from exercising the profession required for holding an executive office, and must have a degree in higher education and at least three years of previous experience in broadcasting or media services, or in the field of economics, social sciences, legal services, engineering as well as in management in an executive level (membership in the management body) relating to supervisory control of the media, or to electronic communications, or supervisory control of the communications sector.

(3) The deputy director shall be entitled to the same remuneration and benefits as the salary and benefits of deputy state secretaries.

(4) The provisions of Subsections (5)-(10) of Section 115 pertaining to the executive director shall also apply to deputy directors.

Conflict of Interest Rules

Section 118

(1) The following may not be appointed to the office of President, Vice-President, executive director and deputy director:

a)¹ the President of the Republic, the Prime Minister, members of the Government, state secretaries, state secretaries for public administration and deputy state secretaries, mayors of communities and metropolitan areas and their deputies, chairmen of the county general assemblies and their deputies, Member of Parliament, spokesman for the nationality, and Members of the European Parliament;

b) the chairperson of the Board of Trustees of the Közzolgálati Közalapítvány (*Public Service Foundation*) and the chairperson and members of the Public Service Board, the executive director and deputy director of the Fund, the President, Vice President and members of the Nemzeti Hírközlési és Informatikai Tanács (*National Council for Communications and Information Technology*), the executive director of the public service media service provider, the chairperson and members of the supervisory board thereof, members of the Media Council, with the exception of the Authority's President, and persons in the employment of any of the aforesaid organizations;

c) local or county-level municipal representatives, government officials, officials of the national or territorial units of political parties, and persons engaged in any form of employment with political parties;

d) senior officials, management board members, supervisory board members of communications and media service providers, broadcasters, advertising agencies, press publishing and newspaper distribution companies;

e) persons engaged in any form of employment or other work arrangement with a communications or media service provider, broadcaster, program distributor, advertising agency, press publishing and newspaper distribution company;

f) persons with a direct or indirect ownership interest in a communications company, media service provider, broadcaster, program distributor, press publishing company, advertising agency or newspaper distribution company;

g) any person holding a direct or indirect ownership interest in a business association - in the case of public limited companies, holding a share of over five per cent -, as well as any person engaged under contract for some form of employment with such companies, where such company is engaged with the bodies referred to in Paragraph d) under agency or service contract;

h) the close relatives of persons covered by Paragraphs a)-b) and d).

(2) For the purposes of Paragraph e) of Subsection (1), other work engagements entailing scientific work, the publication of scientific achievements and the dissemination of scientific information shall not be deemed to constitute conflict of interest.

(3) The President, the Vice-President, the executive director and deputy director may not be engaged in party politics or make representations on behalf of political parties.

Report of the President of the Nemzeti Média- és Hírközlési Hatóság²

Section 119

(1) The President of the Authority shall submit a report to Parliament to give account of the Authority's activities for the previous year by 31 May of each year. In this report the President of the Authority shall:³

a) evaluate the operations and development of the electronic communications market;

b) evaluate decisions adopted with a view to protecting the interests of providers of electronic communications services and the end-users, and to maintain and uphold fair and effective competition in the electronic communications sector;

c) provide information on monitoring the conduct of organizations and persons engaged in electronic communications activities for compliance with the relevant legislation; and

d) evaluate the results 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 governed by the minister in charge of electronic communications.

¹ Amended by paragraph (26) Section 158 of Act XXXVI of 2012.

² Established: by paragraph (5) Section 389 of Act CCI of 2011. In force: as of 1. 01. 2012.

³ Established: by paragraph (6) Section 389 of Act CCI of 2011. In force: as of 1. 01. 2012.

The Nemzeti Hírközlési és Informatikai Tanács (*National Council for Communications and Information Technology*)

Section 120

(1) The Nemzeti Hírközlési és Informatikai Tanács (hereinafter referred to as "NHIT") is a body established to give counsel and advice to the Government on matters of information technology and communications.

(2) The NHIT has five members. The chairperson and deputy chairperson of the NHIT is appointed and dismissed by the Prime Minister.

(3) Members of the NHIT - including the chairperson and deputy chairperson of the NHIT - must have at least five years experience in the field of communications and/or information technology.

(4) Of the members of the NHIT:

a) two members shall be delegated by the Media Council,

b) one member shall be delegated by the Magyar Tudományos Akadémia (*Hungarian Academy of Sciences*).

(5) The NHIT is subject to Hungarian law only, and its members may not be instructed in their official capacity.

(6) The chairperson, deputy chairperson and members of the NHIT shall be appointed for a term of four years.

(7) Vacant seats must be filled by the body so authorized within thirty days.

(8) Government officials and public servants may also be appointed to the office of chairperson, deputy chairperson or member of the NHIT.

(9) The chairperson of the NHIT is entitled to sixty-five percent of the basic remuneration of state secretaries, the deputy chairperson of the NHIT is entitled to sixty percent of the basic remuneration of state secretaries, whereas NHIT members are entitled to fifty-five percent of the basic remuneration of state secretaries starting from the date of their appointment to the termination of their mandate, in addition to which the chairperson, deputy chairperson and members are entitled to reimbursement of expenses as well.

Section 121

(1) The NHIT may present its opinion to the Government as regards information technology, communications and media:

a) concerning the program for the implementation of information society, the dissemination of information culture and strategic decisions relating to the information society;

b) for laying down guidelines relating to research and development;

c) in connection with the perspective of people in general and the dissemination of culture; furthermore

d) for laying down regulations for the communications market, and equal treatment to all market operators;

e)¹ for ensuring harmony between civilian and non-civilian frequency management;

f) concerning the Hungarian position to be presented at international conferences on radio communications;

g) the strategic policies presented concerning the regulation of the infrastructure of the information society and the program for the implementation of the information society.

(2)² The NHIT shall assess for the Government:

a) drafts of government decrees and decrees of ministers;

b) any motion, decision and legislative proposal related to communications and information technology if requested by the Government, the Prime Minister, the minister in charge of electronic communications or the minister in charge of information technology;

¹ Amended by Paragraph k) of Section 49 of Act XXXIX of 2014.

² Established by Subsection (45) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

c) in connection with strategic proposals relating to the regulation of the infrastructure of information society and concerning the program for the implementation of information society; where such motions may be presented to the Government following consultation with the NHIT, with the opinion of the NHIT attached.

(3)¹ The chairperson of the NHIT shall attend - in an advisory capacity - meetings of executive government officials held before Cabinet meetings, and - by way of invitation - in the Cabinet meeting debating the presentations referred to in Subsections (1)-(2).

(4)² The chairperson of the NHIT shall have authority to invite the representatives of bodies concerned in the use of certain specific frequency bands, and in the services provided through them in an advisory capacity.

(5)³ In accordance with Government program relating to the information technology, communications and media sectors, the NHIT shall be able to table its own presentations and motions on the subjects referred to in Subsections (1) and (2) to the Government, or to bodies and organizations controlled or supervised by a minister aiming to improve the efficiency of discharging their public functions relating to those subjects. The heads of the bodies and organizations aforementioned shall send their response to the presentations and motions of the NHIT to the chairperson of the NHIT within thirty days.

(6)⁴ When so appointed by the Government or the Prime Minister, the NHIT shall examine the EU and other tenders on the subjects of communications and information technology of bodies and organizations controlled or supervised by the Government or a minister for reasons of viability and economic feasibility, including their implementation, along with other projects and acquisitions relating to communications and information technology. The NHIT shall compile its findings of such examinations and send its assessment to the Prime Minister. Relying on those findings, the NHIT may submit its own presentations and motions as mentioned in Subsection (5). The bodies and organizations controlled or supervised by the Government or a minister shall cooperate with the NHIT when conducting the above-specified investigations.

(7)⁵ The NHIT shall have quorum when more than half of its members are present, with the chairperson or the deputy chairperson also in attendance. The NHIT shall adopt its decisions - with the exception of decisions regarding conflict of interest - by a simple majority, and in the case of a tie vote the vote of the chairperson shall be decisive.

(8)⁶ The NHIT shall establish its own rules of operation itself.

(9)⁷ The funds necessary for the operation of the NHIT shall be provided from the Authority's budget. These funds may not be appropriated for any other purpose.

(10)⁸ The Állami Számvevőszék (*State Audit Office*) shall oversee the financial management of the NHIT. The NHIT shall prepare a report once a year to the competent committee of the Parliament concerning its activities.

Section 122

(1) The NHIT Office (hereinafter referred to as "Office") shall function as a department of the Authority, whose director is entitled to use the title of office director.

(2) The Office shall handle the duties relating to the operation of the NHIT and shall carry out the related administration activities.

1 Established by Subsection (45) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

2 Established by Subsection (45) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

3 Established by Subsection (45) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

4 Established by Subsection (45) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

5 Established by Subsection (45) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

6 Enacted under Subsection (45) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

7 Enacted under Subsection (45) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

8 Established by Subsection (5) of Section 89 of Act XIV of 2014. Enters into force on 6 May 2014, the day of the inaugural session of the Parliament formed after the general parliamentary elections.

(3) The Office's Powers and Duties Policy shall be approved - in agreement with the chairman of the NHIT - by the President.

(4) The Office's administrative activities shall be supervised by the Office's manager based on the resolution of the NHIT and on the instructions of the chairman of the NHIT.

(5) The Office shall prepare materials for the NHIT for negotiations and for making decision in connection with the assessment the NHIT is required to supply to the Government and/or the Prime Minister under Subsections (1)-(2) of Section 121.

(6) The chairman of the NHIT shall directly supervise the Office's activities in connection with preparing materials for negotiations and for making decision relating to the duties specified under Subsections (1)-(2) of Section 121.

(7) As regards employer's rights relating to the Office manager, the President shall exercise the conclusion and termination of public service relationship on a recommendation by the chairperson of the NHIT, whereas other employer's rights shall be exercised by the chairperson of the NHIT.

Chapter II

Media Council of the Nemzeti Média- és Hírközlési Hatóság

Legal Status and Organizational Structure of the Media Council

Section 123

(1) The Media Council is an independent body of the Authority reporting to Parliament, vested with legal personality. The Media Council is the successor in title of the Országos Rádió és Televízió Testület (*National Radio and Television Board*).

(2) The Media Council and its members are subject only to Hungarian law, and cannot be instructed within their official capacity.

(3) The Media Council is seated in Budapest.

(4) The Office functions as the administrative body of the Media Council.

(5) The Media Council as a body, and any member of the Media Council shall have the right to commission - through the Office - the services of an expert.

Election of the Media Council

Section 124

(1)¹ The chairperson and the four members of the Media Council are elected by Parliament - using the sequential procedure for voting by list - for a term of nine years, except if the mandate of the chairperson terminates for either of the reasons under Paragraphs *b)-e)* of Subsection (1) of Section 113, or the mandate of the member terminates for either of the reasons under Paragraphs *b)-f)* of Subsection (1) of Section 129. In the latter case Parliament shall vote separately on the person nominated to chair or for a seat in the Council.

(2)² Candidates for the office of chairperson and members of the Media Council shall have the right to stand as a candidate in parliamentary elections, must have no prior criminal record, must not be restrained by court order from exercising the profession required for holding an executive office, and must have a university or college degree, and:³

a) at least five years of previous experience in the supervisory control of media services or press products, or in the supervisory control of the communications sector; or

¹ Established by Subsection (6) of Section 89 of Act XIV of 2014. Enters into force on 6 May 2014, the day of the inaugural session of the Parliament formed after the general parliamentary elections.

² Established: by Section 4 of Act XXXIII of 2013. In force: as of 5. 04. 2013.

³ Amended: by subparagraph *c)* paragraph (3) Section 9 of Act CXXXI of 2013. In force: as of 1. 08. 2013.

- b)¹ specializing in media or communications,
 ba) an academic degree recognized in Hungary, or
 bb) at least ten years of experience in teaching in an institution of higher education.

(2a)² The previous experience requirement referred to in Paragraph a) of Subsection (2) shall, in particular, be considered satisfied by the following:

a) regulatory activities at the Office or the Nemzeti Hírközlési Hatóság (*National Communications Authority*) in the field of communications in a management position or as an administrative officer;

b) participating in redress procedures relating to the decisions of the Office or the Nemzeti Hírközlési Hatóság in the capacity of a judge, public prosecutor or legal counsel;

c) work performed at the Országos Rádió és Televízió Testület (*National Radio and Television Board*) or its bodies, or at the Media Council relating to the supervision of media services in a management position or as an administrative officer;

d) participating in redress procedures relating to the decisions of the Országos Rádió és Televízió Testület or its bodies in the capacity of a judge, public prosecutor or legal counsel;

e) membership in the board of trustees of the Magyar Rádió Public Foundation, the Magyar Televízió Public Foundation or in the Hungária Televízió Public Foundation under Act I of 1996 on Radio and Television Broadcasting, or in the Board of Trustees referred to in Section 85.

(3) Members of the Media Council shall be nominated by an *ad hoc* nominations committee comprised of one member from each Parliament faction (hereinafter referred to as "_nominations committee") by unanimous vote:

a) not more than sixty and not less than thirty days before the expiry of the members_ term in office;

b) in cases not covered by Paragraph a), within thirty days of the time of receiving notice concerning the termination of mandate.

(4) The voting power of members of the nominations committee shall be weighted consistent with the number of members of the Parliament faction on whose behalf they were elected.

(5) The Parliament resolution on setting up the nominations committee shall also provide for the time available for Parliament factions to make their nominations for the members of the nominations committee. The nomination process may be opened in the event if either of the factions fail to make a nomination for the nominations committee within the timeframe prescribed by the said Parliament resolution.

(6) If the nominations committee is unable to present four nominees in the cases referred to in Paragraph a) of Subsection (3) within the prescribed time limit, the nominations committee shall be authorized to make nomination in the second round requiring at least two-thirds of the weighted votes.

(7) If the nominations committee remains unable in the second round to present four nominees in the case referred to in Paragraph a) of Subsection (3) within eight days, its mandate shall terminate and a new nominations committee shall be installed.

(8) If the nominations committee is unable to propose a nominee in the case referred to in Paragraph b) of Subsection (3) within the time limit prescribed therein, the nominations committee shall be authorized to make nomination requiring at least two-thirds of the weighted votes.

(9) If the nominations committee remains unable in the second round to present a nominee in the case referred to in Paragraph b) of Subsection (3) within eight days, its mandate shall terminate and a new nominations committee shall be installed.

Section 125

(1)³ The Authority_s President appointed by the President of the Republic shall automatically become nominated for the office of chairperson of the Media Council at the time of appointment.

(2) The chairperson and members of the Media Council shall take office at the time of their appointment, or if elected before the termination of his predecessor_s term in office, at the time of termination of his predecessor_s term in office.

1 Amended: by subparagraph c) paragraph (3) Section 9 of Act CXXXI of 2013. In force: as of 1. 08. 2013.

2 Enacted: by paragraph (2) Section 9 of Act CXXXI of 2013. In force: as of 1. 08. 2013.

3 Amended: by subparagraph b) Section 8 of Act XXXIII of 2013. In force: as of 5. 04. 2013.

(3)¹ If the mandate of the President of the Authority terminates according to Paragraphs *b)-d)* of Subsection (1) of Section 113, his term as the chairperson of the Media Council shall also terminate. If the mandate of the President of the Authority expires, the provisions of Subsection (8) of Section 216 shall apply. The Authority's new president appointed by the President of the Republic shall automatically become nominated for the chair of the Media Council at the time of appointment, and shall be elected by Parliament by the procedure for voting by list, or shall be put to the vote separately as provided for in Subsection (1) of Section 124.

(4)²

(5)³ The chairperson and members of the Media Council may not be re-elected.

(6) The mandate of any new member shall be for the period remaining from the mandate of previously elected members of the Media Council.

(7)⁴ The term of the chairperson of the Media Council shall correspond with the term of the President of the Authority, except where Subsection (8) of Section 216 applies.

Section 126

(1) Members of the Media Council - immediately upon being appointed - shall produce official documentary evidence to the chairperson of the Media Council to verify that they have no prior criminal record and that they are not restrained by court order from exercising the profession required for holding an executive office.

(2) The chairperson of the Media Council shall be authorized to process the personal data of members of the Media Council obtained under Subsection (1) until the expiry of the term in office of the member of the Media Council in question, and may call upon the members at any time to verify the data as specified under Subsection (1).

(3) As regards the chairperson of the Media Council the provisions contained in Subsections (1)-(2) shall apply, with the exception that the chairperson of the Media Council shall supply the proof required under Subsection (1) to the Media Council, and that the entitlement specified in Subsection (2) shall be exercised by the Media Council. The chairperson of the Media Council shall not take part in exercising the Media Council's powers described in this Subsection.

Conflict of Interest Rules

Section 127

(1) The provisions of Subsection (1) of Section 118 on conflict of interest pertaining to the President and Vice-President, executive director and deputy director of the Authority, as well as the grounds for exclusion under Subsection (3) of Section 118 shall also apply to the chairperson and members of the Media Council.

(2) With respect to members of the Media Council, work engagements entered into with publishers or founders of press products, other work engagements entailing scientific work, the publication of scientific achievements and the dissemination of scientific information under contract of employment or otherwise shall not be deemed to constitute conflict of interest.

Obligations of Media Council Members

Section 128

(1) Members of the Media Council shall keep the classified information and business secrets they may obtain in their official capacity strictly confidential.

¹ Established by Subsection (7) of Section 89 of Act XIV of 2014. Enters into force on 6 May 2014, the day of the inaugural session of the Parliament formed after the general parliamentary elections.

² Repealed: by paragraph (8) Section 30 of Act LXVI of 2012. No longer in force: as of 3. 07. 2012.

³ Established: by Section 5 of Act XXXIII of 2013. In force: as of 5. 04. 2013.

⁴ Established: by paragraph (5) Section 30 of Act LXVI of 2012. In force: as of 3. 07. 2012.

(2)¹ The chairperson and members of the Media Council shall take an oath in accordance with the Act on the Oath and Deposition of Public Officials.

(3) Members of the Media Council shall submit a declaration of personal wealth in accordance with the provisions on Members of Parliament, for the first time within thirty days of the time of their appointment. The provisions governing the registration, control and administration of the declarations of personal wealth of Members of Parliament shall apply to the registration, control and administration of the aforesaid declarations of personal wealth as well.

Termination of membership in the Media Council

Section 129

(1) Membership in the Media Council shall terminate:

- a) upon expiry of the mandate of the Media Council;
- b) upon resignation;
- c) in connection with any conflict of interest;
- d) upon dismissal;
- e) by way of expulsion;
- f) upon death.

(2) The chairperson and members of the Media Council shall be dismissed in connection with any conflict of interest arising concerning the chairperson or member, or if the chairperson or member refuse to file a compulsory declaration of personal wealth, or fail to file one in due time, or have knowingly disclosed false data or information in the declaration, furthermore, if they fail to comply with the requirement of verification described in Subsection (1) of Section 126 for reasons within their control.

(3) If any conflict of interest arises in respect of the chairperson or any member of the Media Council, and the conflict of interest is not eliminated within thirty days of the time of the meeting establishing the conflict of interest, the plenary meeting of the Media Council shall adopt a resolution to terminate the membership of the chairperson or the member in question. The chairperson or member of the Media Council may not exercise his vested powers as of the date of the adoption of the resolution establishing the conflict of interest.

(4) The termination of membership of any member of the Media Council shall be established and announced by the chairperson of the Media Council in the cases listed under Paragraphs b) and f) of Subsection (1), or by the plenary meeting of the Media Council in the cases referred to in Paragraphs c), d) and e) of Subsection (1). Termination of the mandate of the chairperson of the Media Council shall be established and announced by the plenary meeting of the Media Council.

(5) The chairperson or any member of the Media Council shall be dismissed if being placed under guardianship affecting legal capacity.

(6) Mandate shall be terminated by way of expulsion if:

- a) the chairperson or any member of the Media Council is unable to fulfill his vested responsibilities for six consecutive months or more for reasons within his control;
- b) the chairperson or any member of the Media Council was indicted in criminal proceedings and was found guilty by the court's final verdict carrying a sentence of imprisonment or restraint from exercising the profession required for holding the office of chairperson or member of the Media Council.

(7)² In the decision-making process of the Media Council concerning any conflict of interest, dismissal or expulsion, the chairperson or the member affected may not take part in the voting process, and the unanimous decision of those entitled to vote is required to resolve such matters. If a unanimous decision is not rendered in the second round of voting concerning the issues mentioned above, the chairperson of the Media Council shall propose to transfer the case to Parliament to make the decision. In this case, Parliament shall adopt a decision on the conflict of interest, dismissal or expulsion.

¹ Established: by paragraph (7) Section 389 of Act CCI of 2011. In force: as of 1. 01. 2012.

² Established by Subsection (8) of Section 89 of Act XIV of 2014. Enters into force on 6 May 2014, the day of the inaugural session of the Parliament formed after the general parliamentary elections.

(8) If the chairperson of the Media Council is affected, the member designated in the rules of procedure shall substitute the chairperson in the proceedings under Subsections (3), (6) and (7).

(9) The chairperson and members of the Media Council, for one year following termination,

a) may not engage in employment relationship or any other form of work related relationship with a business association,

b) may not establish regular economic ties, as the executive officer or owner of a business association, with a business association, and

c) may not acquire any share in a business association,

if any right or lawful interest of this business association was affected by a previous decision made in the capacity of chairperson or member of the Media Council.

(10) Following the termination of mandate under Subsection *a)* or *b)* of Subsection (1) the chairperson or member of the Media Council shall be entitled to severance pay of double the monthly remuneration in effect at the time of termination. If the chairperson's or member's time in office did not exceed three years, the restriction laid down in Subsection (9) shall apply for a period of six months following termination, in which case the chairperson or member shall be entitled to a severance pay of one month's remuneration.

Remuneration of Members of the Media Council

Section 130

(1) The remuneration of the chairperson of the Media Council shall be sixty per cent of the minister's remuneration, plus expenses.

(2) The remuneration of members of the Media Council shall be seventy-five percent of the remuneration of state secretaries, plus expenses.

Operation of the Media Council

Section 131

(1) The Media Council shall itself define its rules of procedure, which shall be published in the Magyar Közlöny (*Official Hungarian Gazette*).

(2)¹ If the chairperson of the Media Council is unable to attend a meeting of the Media Council, or if the Media Council has no elected chairperson, the duties and powers of the chairperson, and representation of the Media Council shall be attended to by members of the Media Council in the sequence defined in the rules of procedure. The member substituting the chairperson may take part in voting procedure.

Responsibilities of the Media Council

Section 132²

In accordance with Sections 181-184 the Media Council shall:

a) oversee and guarantee the freedom of press within the framework of this Act and the Press Act;

b) invite tenders and evaluate the tenders submitted in connection with rights for providing media services using limited State-owned resources;

c) carry out the supervisory and oversight responsibilities defined by law through the reception and recording of broadcasts or programs or through the examination of the broadcast recorded by the media service provider, and if so requested by the authorities;

d) operate a program monitoring and analyzing service via the Office;

¹ Established: by paragraph (6) Section 30 of Act LXVI of 2012. In force: as of 3. 07. 2012.

² Established by Subsection (46) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

- e) assess the drafts of any legislation relating to the media and communications;
- f) routinely monitor compliance with the public contracts it has concluded;
- g) draw up opinions and proposals with respect to the theoretical aspects of developing the Hungarian system of media services;
- h) initiate proceedings related to the protection of consumers and to the prohibition of unfair market practices;
- i) report to the European Commission concerning the fulfillment of the requirements relating to program quotas;
- j) initiate amendments to this Act as may be necessary at the minister responsible for audiovisual policy;
- k) undertake a pioneering role in developing media literacy and media culture in Hungary and, as part of this endeavor, coordinate the activities of other public operators in the area of media literacy, as well as assist the Government with drafting its upcoming interim report to the European Union on the same subject;
- l) attend to other responsibilities as defined by this Act and by other legislation adopted by authorization under this Act.

Report of the Media Council

Section 133

(1) The Media Council shall submit a report to Parliament to give account of its activities for the previous year by 31 May of each year. In this report the Media Council shall evaluate:

- a) the current status of freedom of speech, opinion and the press, as well as the freedom of information;
- b) changes in the ownership structure of media service providers and broadcasters;
- c) the status quo of frequency management serving to satisfy existing 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 of the ministry governed by the minister responsible for audiovisual policy.

Financial Management of the Authority and the Media Council

Section 134

(1)¹ The Authority operates in accordance with the regulations relating to the financial management of bodies governed by public law, shall be entitled to manage State property according to the statutory provisions on central budgetary agencies, and shall cover its expenses, related to the performance of its functions, from its own revenues and budgetary contributions. The Authority's accounts are carried by the Treasury. Each year, the Authority may set aside funds from its own revenues defined under Subsection (4) - with the exception of fines - up to twenty-five percent of its actual revenue for the subject year. The reserves thus created may only be used for covering operating expenses and for discharging its duties in the following years, and may not be drawn on for other purposes.

¹ Established by Subsection (47) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

(2) The Authority_s consolidated budget shall be approved by Parliament in a separate act, in accordance with the provisions of this Act, relying on resources specified under Subsection (4) of this Section and Subsection (3) of Section 136 where the same act shall also provide for appropriation of any residual amounts that may have remained in the Authority_s budget from the previous year, excluding reserves referred to in Subsection (1) and residual amounts that have already been committed by 31 December of the same fiscal year when they were generated. Residual amounts that have already been committed 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 deed underlying the commitment. The President shall be entitled to restructure the resources between the approved allotment accounts of the integrated budget, with the provision that the Media Council_s authorization shall be required for re-allocations affecting its own budget. Within the Authority_s integrated budget, the Media Council enjoys financial independence as described in Section 135.

(3) The Parliament_s budgetary committee shall submit to Parliament the bill comprising the Authority_s integrated budget by 31 October of the previous year, based on the President_s proposal delivered by September 15, 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 previous budget until the new budget is approved.

(4) The revenues of the Authority shall comprise a percentage of the frequency fees, the fees charged for the reservation and use of identifiers and for official proceedings, and the supervision fees. These revenues shall be dedicated to the efficient operation of the Authority at a high professional level. The Authority shall publish a statement on its revenues indicating also the appropriation of these funds, and on the use of central subsidies on its website each year.

(5)¹ The precise amount of frequency fees, the fees charged for the reservation and use of identifiers shall be decreed by the President of the Nemzeti Média- és Hírközlési Hatóság (*National Media and Infocommunications Authority*).² Portions of frequency charges that the Authority did not use neither for operating purposes under the Act referred to in Subsection (2), nor for the generation of reserves as specified in Subsection (1) shall be paid into the Fund as instructed by the President. The President shall also specify in his instructions the public purpose for which the sums paid into the Fund may be used, and the method of such use. Any sum transferred pursuant to this Subsection may be used by the Fund strictly as instructed by the President, i.e. for the purpose designated by the President. The executive director of the Fund may, in the course of using such sums, request the President to amend the prescribed purpose of use and/or the rules of appropriation, where deemed necessary in the interest of the public. The President may refuse the request made by the Fund_s executive director or, alternatively, approve it in its entirety or in part, or he may designate a new purpose serving the public interest and/or new rules of appropriation. If the Fund uses the sums transferred in violation of the President_s instructions, the funds involved shall be repaid to the Authority in due course and upon notice by the President. The Authority shall put the funds thus refunded into reserves, and use it for providing aid to the Fund for new purposes defined by the President in the public interest, or, alternatively, may use such funds - in part or in whole - directly for a public purpose linked to communications and related markets, or for improving the well-being of consumers. The Authority shall effect such payments - apart from the aids provided from the reserves - 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 set aside in accordance with this Subsection - also in view of the provisions of Subsections (2) and (12) - shall not be deemed as actual residual amounts.

¹ Amended by Subsection (1) of Section 229 of the same Act.

² See Decree No. 1/2011 (III. 31.) NMHH.

(6)¹ Providers of electronic communications services shall be required to pay supervision fees, designated to cover the costs incurred in connection with the Authority's regulatory function in terms of communications, whereas postal service providers shall be required to pay supervision fees to cover the cost of supervisory activities with respect to postal services. The fee shall be maximum 0.35 per cent of the previous year's net turnover of the electronic communications services provider from electronic communications services, and maximum 0.2 percent of the previous year's net turnover of postal service providers from postal services, or if the previous year's turnover cannot be established, the revenues received during the current year projected for the entire year. The rate of supervision fees shall be decreed each year by the President of the Nemzeti Média- és Hírközlési Hatóság within the limits specified by law.

(7) The supervision fee shall be paid to the Authority quarterly, by the end of each quarter.

(8) If the revenues, covered by this Act, of the Authority from supervisory activities exceed the amount necessary to cover its operating expenses in a fiscal year in connection with discharging its duties conferred by law, the surplus shall be credited, following approval of the Authority's annual accounts, to the amount of the supervision fee payable for the next year in proportion to and in an amount not exceeding the amounts of supervision fees paid in the current year.

(9) With a view to improving the ability of consumers to make an informed decision, in particular to fostering scientific and educational programs relating to communications and media regulations and to competition and consumer protection policies, to the training of experts in the fields of communications and media regulations and consumer protection policy, the enhancement of consumer awareness relating to communications and media policy, and to improving consumer information so as to enable consumers to make decisions and for the protection of such right, the Authority shall be entitled to appropriate all the fines collected in the previous year. The unused portion of the sum that remains from the amount allocated for the year may be carried over to the next year and may be used for the enhancement of consumer awareness.

(10) Parliament shall make its decision about implementing the particular act referred to in Subsection (2) by adopting the bill of final accounts as proposed in accordance with the procedure specified in Subsection (2), including the Schedule described in Subsection (15) of Section 136. The deadline for the submission of the said final accounts act is 31 May each year.

(11)²

(12) For the purposes of Subsection (2), any legal statement made in accordance with the internal directives of the Authority and/or the Fund shall be considered a commitment, giving rise to a payment obligation to be financed from the integrated budget in accordance with specific other legislation as specified in Subsection (2).

(13)³ Charges and administrative service fees defined by this Act and in legislation adopted by authorization under this Act, and the financial penalties imposed under this Act, which are payable to the Authority, shall be treated as outstanding public dues enforced as taxes.

Section 135

(1) The Media Council shall operate in accordance with the regulations relating to the financial management of bodies governed by public law, whose accounts are maintained by the Treasury.

(2) Parliament shall approve the Media Council's budget as part of the Authority's integrated budget, in a separate chapter therein, for financing the operating expenses of the Fund, and the resources defined in Subsection (3) of Section 136 of this Act for covering the Media Council's operating expenses pursuant to the Act governing the Authority's budget. The Media Council shall be entitled to restructure the resources between the approved allotment accounts.

Médiaszolgáltatás-támogató és Vagyonkezelő Alap (*Media Service Support and Asset Management Fund*)

¹ Amended under Subsection (75) of Section 64 of Act CVII of 2011.

² Repealed by Paragraph a) of Subsection (2) of Section 38 of Act LXVI of 2011, effective as of 1 July 2011.

³ Enacted by Subsection (48) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

Section 136¹

☞(1)² The Fund is a trust and monetary fund appropriated to provide support for the structural transformation of public media services, the Public Service Foundation, community media services and the public media service provider, the production and production support of public service programs, supporting cinematographic works primarily intended for showing in movie theaters as well as contemporary musical works, fostering the careful management and expansion of State property over which the Fund is entitled to exercise ownership rights and its own assets, as well as promoting and implementing other related activities.

☞(2)³ The assets of the Fund and the State property over which the Fund is entitled to exercise ownership rights, including the income from the utilization and from the transfer of ownership of such assets and property, may be used only for the purposes defined by law.

☞(3)⁴ The Fund's revenue shall, in particular, comprise media service license fees, tender fees, default penalties levied for breaches of broadcasting contracts and compensations, fines, public service contributions, surplus frequency fees transferred by the Authority to the Fund pursuant to Subsection (5) of Section 134, contributions paid according to Subsection (8) by media service providers specializing in linear audiovisual media services, target subsidies from the central government budget, proceeds from the utilization and sale of assets and from business operations, interest received and donations received.

(4) The Hungarian State shall pay a public service contribution each year based on the number of households using equipment suitable for receiving linear audiovisual media services. The amount of the public service contribution is defined in Schedule No. 4 to this Act. Public service contribution is paid by the State in twelve equal installments, in advance by the third day of each month, by way of transfer to the Fund's bank account. The Fund shall be entitled to assign its revenues from public service contributions, subject to authorization by the Media Council.

(5) Acting on behalf of the Hungarian State, the minister responsible for audiovisual policy may enter into an agreement with the Fund for a maximum term of seven years for payment of the public service contribution. Such an agreement may be concluded without the special authorization prescribed by the Public Finance Act to be obtained from Parliament.

☞(6)⁵ The Fund is an economic operator with legal personality, managed by the Media Council. The Fund is the successor in title of the Műsorszolgáltatási Alap (*Broadcasting Fund*) and the Műsorszolgáltatás Támogató és Vagyonkezelő Alap (*Broadcasting and Support Trust Fund*).

(7)⁶ The Fund shall open a payment account with the Treasury, and may open other payment accounts at credit institutions in addition to the one carried by the Treasury.

(8) Media service providers with significant powers of influence, providing linear audiovisual media services shall allocate two and a half percent of their annual advertising revenues to supporting new Hungarian cinematographic works. This obligation may be satisfied either by paying the relevant amount to the Fund in cash, or by allocating funds to a new cinematographic work to be designated in an agreement by and between the Fund and the media service provider. The media service provider may deduct any amount thus paid up or contributed from its corporate tax base.

(9) Donations made into the Fund shall be treated as public commitments. Where the donation provided to the Fund is made pursuant to a commitment undertaken in a public contract made with the Authority or the Media Council, or in an agreement made with the Media and Communications Commissioner, the donation shall be appropriated based on the terms and conditions of said agreements.

¹ Established by Subsection (49) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

² Established by Subsection (1) of Section 24 of Act CVII of 2014, effective as of 1 January 2015.

³ Established by Subsection (1) of Section 24 of Act CVII of 2014, effective as of 1 January 2015.

⁴ Established by Subsection (1) of Section 24 of Act CVII of 2014, effective as of 1 January 2015.

⁵ Established by Subsection (2) of Section 24 of Act CVII of 2014, effective as of 1 January 2015.

⁶ Established: by paragraph (14) Section 112 of Act CXCV of 2011. In force: as of 1. 01. 2012.

(10) The Fund's support and subsidy policy, business plan and annual accounts are approved by the Media Council. The Media Council's prior consent shall be obtained before the Fund's financial resources and book assets can be used for any purpose not stated in the Fund's support and subsidy policy and/or business plan, and for undertaking commitments to be funded therefrom, or for making payments that exceed the threshold amount defined by the Media Council.

(11) The Fund shall be represented by the executive director. The chairperson of the Media Council shall exercise all employer's rights over the Fund's executive director, including appointment, determining the amount of his salary and benefits, as well as dismissal.

(12) The executive director shall make recommendation for the appointment and dismissal of the Fund's deputy directors to the chairperson of the Media Council, who shall then decide concerning the appointment, the amount of salary and benefits, as well as dismissal. Other employer's rights over the deputy directors shall be exercised by the executive director.

(13) The provisions of Subsections (1)-(2) of Section 118 on conflict of interest pertaining to the President and Vice-President, executive director and deputy director of the Authority, as well as the grounds for exclusion under Subsection (3) of Section 118 shall also apply to the executive director and deputy directors of the Fund.

(14) The chairperson of the Media Council shall appoint and remove the chairperson and four members of the Fund's Supervisory Board. Their remuneration shall also be determined by the chairperson of the Media Council.

(15) The annual budget of the Fund shall be approved by Parliament, annexed to the separate law referred to in Subsection (2) of Section 134.

(16) The detailed provisions for the management of the Fund shall be laid down by the Media Council.

 (17)¹


(18) The Fund shall enjoy individual duty exemption and shall not be liable to pay corporate taxes or local taxes.


Section 137

(1)² Support for public service programs and for community media service providers, as well as support for cinematographic works primarily intended for showing in movie theaters and for contemporary musical works - not including the cinematographic works supported by way of the means specified in Subsection (8) of Section 136 - shall be provided for by way of public tender procedures.

(2) The standard tender conditions drawn up by the Fund shall be approved by the Media Council.

(3) The Fund shall prepare and publish tender notices consistent with the standard tender conditions approved. The standard tender conditions shall contain provisions for the evaluation of tenders as well.

 (3a)³ The obligation assumed in exchange for the support granted - by way of a tender - by the Fund stemming from its function provided for in Subsection (1) of Section 136, which have a direct impact on price, shall not constitute a supply of services within the meaning of Section 13 of the VAT Act.

 (3b)⁴ The goods and services received in connection with the production of works financed from the support granted - by way of a tender - by the Fund under Subsection (1) of Section 136 shall be treated as a goods and services supplied within the framework of taxable transactions in the application of Section 120 and Section 123 of and/or Schedule No. 5 to the VAT Act.

(4) The Fund shall provide for the further training of individuals engaged in producing public service media content, with a view to fostering attainment of the objectives of public media service as defined in Section 83, in order to promote the creation of quality media content. The Fund shall be entitled to make the necessary training arrangements within the scope of its commercial activity.

¹ Repealed by Section 31 of Act CVII of 2014, effective as of 1 January 2015.

² Established by Subsection (50) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

³ Enacted by Section 25 of Act CVII of 2014, effective as of 1 January 2015.

⁴ Enacted by Section 25 of Act CVII of 2014, effective as of 1 January 2015.



The Fund_s Management of State Property¹



Section 137/A²

(1) The Fund is empowered under Point 17 of Subsection (1) of Section 3 of Act CXCVI of 2011 on National Assets (hereinafter referred to as "_National Assets Act") to exercise ownership rights over any and all State property, including copyright and related rights held by the State (assigned State property),

a) where the Fund, or any predecessor of the Fund previously, was designated by law to exercise ownership rights and obligations relative to those assets, and

b) where such assets were accrued by the State in connection with public media services, or with support services.

(2) In the interest of providing public media services, the Fund shall be entitled to establish business associations in the name of the Hungarian State, or, to this end, to acquire shares in a business association and to exercise ownership (members_, shareholders_) rights in a business association.

(3) The primary function of the assigned State property is to improve the performance of public functions, such as to provide public media services and news agency services.

(4) The primary purpose of asset management is to improve the efficiency of the operation of State property, to protect its condition and to preserve, or increase, its value, and to promote the fulfillment of the public functions provided for in Subsection (3).

(5) The Fund_s activity in exercising ownership rights over the assigned State property entrusted to it shall not be covered by Act CVI of 2007 on State Property (hereinafter referred to as "_ASP").

(6) The Fund is recognized as a transparent organization under Point 1 of Subsection (1) of Section 3 of the National Assets Act.



Section 137/B³

(1) In exercising ownership rights over the assigned State property entrusted to it, the Fund shall proceed in accordance with the provisions of the National Assets Act, with the derogations set out in Subsections (3)-(9) hereof.

(2) The Fund shall be entitled to use, and to utilize the assigned State property entrusted to it, or may transfer (sell) its ownership rights, unless otherwise provided for by law. The contract for utilization or for the transfer of ownership right shall be executed in writing.

(3) As regards the utilization or the transfer of ownership right of assets whose value exceeds the limit specified in Subsection (16) of Section 11 of the National Assets Act, unless otherwise provided for by law, such contracts may be concluded in a public tender procedure, or in a restricted procedure under special circumstances, by ensuring the principle of value for money. In determining the amount limit, the market value of the asset utilized or sold (in whole or in part), or if several different assets are affected, the aggregate value of such assets shall be taken into consideration. In the case of real estate property, or any other asset whose gross value exceeds 5 million forints, the assessment of an independent expert is required to determine the market value.

(4) The obligation of tendering applies also to the extension of fixed-term utilization contracts. In the competitive selection process the contracting entity shall ensure equal access for all actors to information deemed necessary for making an offer, and also as regards the conditions of competition.

(5) Competitive selection is not required:

a) if utilization is for the benefit of a publicly financed organization, body;

b) if utilization is for the benefit of an organization under the majority ownership of the Hungarian State, or the Fund, individually or on the aggregate;

¹ Enacted by Section 26 of Act CVII of 2014, effective as of 1 January 2015.

² Enacted by Section 26 of Act CVII of 2014, effective as of 1 January 2015.

³ Enacted by Section 26 of Act CVII of 2014, effective as of 1 January 2015.

- ☞ c) if utilization is for the benefit of an organization carrying out statutory State or municipal government functions;
 - ☞ d) if utilization is for the benefit of the public media service provider;
 - ☞ e) if utilization is for the benefit of a foreign state or a foreign local authority; furthermore
 - ☞ f) if the sphere of potential candidates for utilization is restricted by virtue of statutory provision or due to the circumstances prevailing in connection with the assignment of utilization rights to the extent whereby the benefits and advantages that may be obtained through tendering are eliminated;
 - ☞ g) if the term of the contract to be concluded is less than:
 - ☞ ga) one hundred and eighty days in the case of real estate property,
 - ☞ gb) three years in the case of a contract relating to archives, or in the case of a use contract,
 - ☞ gc) ninety days in other cases; or
 - ☞ h) if utilization is aimed to increase the Fund_s production capacity, and in that context, for the utilization of its studio and equipment.
- ☞ (6) Competitive selection is not required:
- ☞ a) if ownership right is transferred to an organization covered by Paragraphs a)-e) of Subsection (5); or
 - ☞ b) if ownership right is transferred by way of exchange; or
 - ☞ c) if ownership right is transferred in the interest of implementation of an international agreement; furthermore
 - ☞ d) where the assets are delegated to a business association in the form of an in-kind contribution;
 - ☞ e) in the case where a buy option relating to the asset in question is exercised;
 - ☞ f) in connection with title transfers concerning the implementation of statutory provisions relating to parcel reconfiguration or with carrying out the parcel reconfiguration.
- ☞ (7) The notice for a restricted tender procedure may be published if the practical and estimated costs of a public tender are likely to significantly diminish the potential income the asset in question is liable to generate in a year, or the proceeds from the sale, or if a previous public tender failed and this procedure is the only suitable way to ensure proper utilization of the State property in question.
- ☞ (8) In connection with a restricted tender procedure, an invitation to tender shall be sent in writing to at least three potential and independent bidders simultaneously, directly and by the same means, together with the tender notice.
- ☞ (9) In connection with a buy option relating to the assets entrusted to the Fund the relevant statutory provisions must be strictly observed.
- ☞ (10) Apart from the case provided for in Subsection (13) of Section 11 of the National Assets Act, the Fund shall - within the framework of its asset management activity - provide free access for the public media service provider to the assets entrusted to it, and shall provide related services free of charge, including the services required for the public media service provider_s everyday operations.
- ☞ (11) Where tangible assets, comprising part of the assigned State property, that have been disposed of - other than real estate property - are transferred without consideration, the provision of Paragraph b) of Subsection (4) of Section 13 of the National Assets Act, pertaining to the obligation of reporting, shall not apply.



Section 137/C¹

- ☞ (1) A contract for the utilization or transfer of ownership of assigned State property may not be concluded with a person who:
 - ☞ a) is undergoing bankruptcy, liquidation or dissolution proceedings, or involved in a local government debt consolidation procedure;
 - ☞ b) has suspended its activities or whose operations had been suspended;
 - ☞ c) has any outstanding public dues overdue for longer than sixty days, as described in Point 20 of Section 178 of Act XCII of 2003 on the Rules of Taxation;
 - ☞ d) has a criminal record for having been convicted of either of the following criminal offences:

¹ Enacted by Section 26 of Act CVII of 2014, effective as of 1 January 2015.

➡ *da*) crime against the integrity of public life under Chapter XV, Title VI or economic crime under Chapter XVII of Act IV of 1978 on the Criminal Code in force until 30 June 2013 (hereinafter referred to as "Act IV/1978"),

➡ *db*) crime of corruption under Chapter XXVII, crime relating to counterfeiting currencies and philatelic forgeries under Chapter XXXVIII, crime against public finances under Chapter XXXIX, money laundering under Chapter XL, economic and business crime under Chapter XLI, crime against consumer rights and any violation of competition laws under Chapter XLII or illicit access to data and crimes against information systems under Chapter XLIII of Act C of 2012 on the Criminal Code;

➡ *e*) has been restrained by court order from exercising the profession required for holding an executive office in an economic operator or business association, or whose activities are restrained for any period by final court verdict pursuant to Subsection (2) of Section 5 of Act CIV of 2001 on Criminal Sanctions in Connection with the Criminal Liability of Legal Persons;

➡ *f*) has been found guilty of serious misrepresentation in supplying false information in a procedure that has been concluded within three years for the utilization or sale of State property, and was excluded from the procedure in consequence.

➡ (2) Before the contract is concluded, the contracting party shall supply a statement signed in manuscript by him, or - in the case of legal persons - by the authorized signatory, declaring that he is not subject to disqualification under the grounds defined in Subsection (1). In the absence of such statement the contract may not be concluded. If the contract is concluded on the basis of a statement containing false information it shall be considered null and void.

➡ (3) Where any grounds for exclusion provided for in Subsection (1) arises after the contract for the utilization of assigned State property is concluded, the Fund shall have the right to avoid and cancel the contract effective immediately.



Section 137/D¹

➡ Subject to prior approval by the Media Council, the Fund may enter into an agreement with the Magyar Nemzeti Vagyonkezelő Zrt. (*Hungarian State Holding Company*) (hereinafter referred to as "MNV Zrt.") for transferring the right for exercising ownership rights at book value, without any consideration. The agreement shall be considered concluded when approved by the minister vested with powers to oversee state property. The request for such approval shall be submitted to the minister vested with powers to oversee state property by the Fund and MNV Zrt. collectively. Once the agreement is concluded the asset in question shall be treated as provided for in Subsection (1) of Section 3 of the ASP.



Section 137/E²

➡ (1) In the Fund's records the Fund's own assets and the assigned State property entrusted to it shall be shown separately. The records of assigned State property shall be maintained reflecting the unique characteristics of the particular asset, complete with identification information shown as arranged with the Központi Statisztikai Hivatal (*Central Statistics Office*), showing also the quantity and value, and the date of origin (activation).

➡ (2) The obligation of recording at the value provided for in Subsection (1) shall not apply to such assets whose value cannot be determined owing to its nature or character, such as in particular copyright and related rights held in the archives.

➡ (3) The Fund shall comply with its bookkeeping and reporting obligations relating to the assigned State property entrusted to it in accordance with the decree governing the accountancy of public finances.

➡ (4) Having regard to the public function provided for in Subsection (3) of Section 137/A there is no need to indicate in the records the public function stemming from the primary purpose of an asset.

¹ Enacted by Section 26 of Act CVII of 2014, effective as of 1 January 2015.

² Enacted by Section 26 of Act CVII of 2014, effective as of 1 January 2015.

Médiatudományi Intézet (*Media Institute*) of the Media Council

Section 138

(1) The Media Institute of the Media Council (hereinafter referred to as "Institute") is an independent entity within the Authority, designated to assist the Media Council in operations, and to pursue scientific activities. The head and members of the Institute are public servants of the Authority.

(2) The Institute is supervised by the Media Council.

(3) The Institute's responsibilities include the following:

a) support the operations of the Media Council by way of performing research and analysis;

b) conduct social research projects relating to the media;

c) publish trade materials;

d) organize trade conferences;

e) perform other responsibilities defined by the Media Council for the Institute.

(4) The Institute may also engage the services of external experts.

Chapter III¹

MEDIA AND COMMUNICATIONS COMMISSIONER²

General Provisions³

Section 139⁴

(1) The Media and Communications Commissioner (hereinafter referred to as "Media Commissioner") operates attached to the Authority. The Media Commissioner is working to promote the enforcement of equitable interests of users, subscribers, viewers, listeners, consumers of electronic news services and/or media services, as well as the readers of press products in connection with electronic communications, media services and press products. The Media Commissioner shall proceed in matters conferred under this Act.

(2) The Media Commissioner shall be appointed and recalled by the President, who shall also exercise employer's rights. The Media Commissioner is a public servant of senior department head ranking. In performing the duties under this Chapter the Media Commissioner may not be given instructions.

(3)⁵ The provisions of Subsections (2) and (2a) of Section 111/A shall also apply to the Media Commissioner.

(4) The Media Commissioner is assisted in performing his duties by the Média- és Hírközlési Biztos Hivatala (*Office of the Commissioner for Media and Communications*) (hereinafter referred to as "Media Commissioner's Office"); public servants of the Media Commissioner's Office are appointed and recalled by the President, and other employer's rights shall be exercised by the Media Commissioner.

¹ Established: by Section 23 of Act LXVI of 2012. In force: as of 19. 06. 2012.

² Established: by Section 23 of Act LXVI of 2012. In force: as of 19. 06. 2012.

³ Established: by Section 23 of Act LXVI of 2012. In force: as of 19. 06. 2012.

⁴ Established: by Section 23 of Act LXVI of 2012. In force: as of 19. 06. 2012.

⁵ Amended: by subparagraph c) Section 8 of Act XXXIII of 2013. In force: as of 5. 04. 2013. Amended: by subparagraph b) paragraph (3) Section 9 of Act CXXXI of 2013. In force: as of 1. 08. 2013.

(5) The operation, organizational structure, internal and external relations of the Media Commissioner's Office is laid down in the Authority's Organizational and Operational Regulations and in the rules of procedure of the Media Commissioner's Office. The rules of procedure of the Media Commissioner's Office are prepared by the Media Commissioner and are approved by the President.

(6) The budget of the Media Commissioner's Office shall be provided in a separate chapter within the budget of the Authority.

Section 140¹

(1) When detecting any conduct in the provision of a media service, press product and electronic news service that is not considered to constitute an infringement of the regulations on media governance or electronic communications and that falls outside the scope of competence of the Media Council, the President or the Office, that, however, is or may be suitable for causing harm to the equitable interests of users, subscribers, viewers, readers, listeners, consumers of media services and press products and electronic communications services,

a) the aggrieved party or any person who is likely to be exposed directly to the effects of such infringement (in the application of this Chapter hereinafter referred to as "infringement"), or

b) the association for the protection of consumers, subscribers, users, or viewers, listeners and readers,

shall have the right to lodge a complaint with the Media Commissioner's Office.

(2) Requests and notifications received by the President, the Office or the Media Council that meet the conditions laid down under Subsection (1) in terms of content, and contain the data under Subsection (5) of Section 141 shall be transferred by the President, the Office or the Media Council within eight days to the Media Commissioner, and the Media Commissioner shall henceforward handle such requests and notifications as if they were submitted to him. This fact as well as the fact of transfer shall be communicated to the notifier concurrently with the transfer.

(3) In connection with complaints relating to electronic communications services, and to media services and press products, the Media Commissioner shall proceed in accordance with Section 142 and Section 142/A, respectively.

Common Provisions Relating to Proceedings by the Media Commissioner²

Section 141³

(1) The proceedings of the Media Commissioner shall not be deemed as administrative proceedings, moreover, the Media Commissioner shall not have the right to exercise the powers vested with authorities. Complaints defined in Subsection (1) of Section 140 shall not be handled as administrative actions. The Media Commissioner shall have powers to take regulatory action only in connection with complaints relating to electronic communications services, by way of the means specified in Section 142.

(2) The proceedings of the Media Commissioner may be initiated only upon receipt of a complaint. The Media Commissioner shall examine the complaint and if it is found manifestly unfounded or the infringement to which it pertains is deemed insignificant, or when the case falls outside the scope of competence of the Media Commissioner, the complainant shall be notified thereof within fifteen days. In his notification, the Media Commissioner shall inform the complainant of his rights and obligations accrued under legislation on electronic communications and/or media governance or under the subscriber contract, as well as the course of action and means of remedy available for such complainant.

¹ Established: by Section 23 of Act LXVI of 2012. In force: as of 19. 06. 2012.

² Established: by Section 23 of Act LXVI of 2012. In force: as of 19. 06. 2012.

³ Established: by Section 23 of Act LXVI of 2012. In force: as of 19. 06. 2012.

(3) If the Media Commissioner considers upon the conciliation procedure conducted according to Subsection (4) of Section 142 or Subsection (1) of Section 142/A that the complaint is manifestly unfounded or the infringement to which it pertains is deemed insignificant, or when the case falls outside the scope of competence of the Media Commissioner, the complainant and the parties to the conciliation procedure shall be notified thereof within fifteen days. In his notification, the Media Commissioner shall inform the complainant of his rights and obligations accrued under legislation on electronic communications and/or media governance or under the subscriber contract, as well as the course of action and means of remedy available for such complainant.

(4) The complainant shall have the right to request to have his personal identification data and address to be handled strictly confidentially. In that case, the Media Commissioner - with a view to ensuring the right of access to the file - shall make an extract of the complaint with all information of reference to the complainant removed. The Media Commissioner shall be authorized to disclose to third parties this extract only. The Media Commissioner shall be allowed to process - for the purposes of investigating the complaint - the personal data of the complainant revealed to the Media Commissioner in the course of the procedure until the procedure on the complaint is completed, of which the complainant shall be duly informed.

(5) The complaint shall contain the name, home address or mailing address of the complainant, a description of the infringement based on which the action of the Media Commissioner is requested, as well as the action or conduct that may give rise to the infringement, as well as the description of other facts that suggest or substantiate that the conditions laid down in Subsection (1) of Section 140 are met. If the complaint submitted is incomplete the Media Commissioner shall advise the complainant to remedy the deficiencies within the prescribed time limit. If the complainant fails to remedy or improperly remedies deficiencies, the submission may not be construed as a complaint, therefore the Media Commissioner shall not open proceedings, or - if proceedings are already in progress - terminate the proceedings and shall notify the complainant and the parties to the conciliation procedure within fifteen days thereof. In his notification, the Media Commissioner shall inform the complainant of his rights and obligations accrued under legislation on electronic communications and/or media governance or under the subscriber contract, as well as the course of action and means of remedy available for such complainant.

Proceedings of the Media Commissioner in Connection with Complaints Relating to Electronic Communications Services¹

Section 142²

(1) The Media Commissioner - with a view to investigating the infringement defined in Subsection (1) of Section 140, revealed by the complaint - shall have the right to request data, information and statements related to the infringement from any electronic communications service provider, and may apply - as appropriate - the measures specified in the APA on official audits and the provisions of this Act on ascertaining the relevant facts of the case. The electronic communications service provider affected shall supply to the Media Commissioner the data, information, document or other similar instrument (for the purposes of this subtitle hereinafter referred to collectively as "data") requested within fifteen days even if the particular data are deemed business secrets. The Media Commissioner shall keep business secrets thus obtained as confidential and handle them at the request of the data supplier as a document with restricted access.

(2) The Media Commissioner shall conduct the proceedings specified in this Section within the time limit specified in Section 151. This time limit shall not cover:

- a) the length of time elapsed from the time of notice described in Subsection (5) of Section 141 for remedying deficiencies until such deficiencies are in fact remedied;
- b) the length of time elapsed from the time of notice for the disclosure of data under Subsection (1) until such data is in fact supplied;
- c) the duration of the procedure under Subsection (3);

¹ Enacted: by Section 23 of Act LXVI of 2012. In force: as of 19. 06. 2012.

² Established: by Section 23 of Act LXVI of 2012. In force: as of 19. 06. 2012.

d) the length of time elapsed from the time of notice for making a statement under Subsection (5) until such statement is in fact made.

(3)¹ In the event that the affected electronic communications service provider fails to supply to the Media Commissioner the requested data within the prescribed time limit, the Media Commissioner shall request assistance from the Office. The Office shall initiate oral or written conciliation with the provider of electronic communications services concerning the need for data disclosure, or on the type of data requested. Consequently, the Office shall order the affected electronic communications service provider to make available the data specified by the Media Commissioner as related to the infringement, in accordance with Subsection (1) hereof and with the outcome of the conciliation procedure. An appropriate deadline of at least fifteen days shall be prescribed for the disclosure of data as per the above. The provisions of Subsections (5)-(7) of Section 155 shall apply as well. The provider of electronic communications services affected may lodge a suspensory appeal to the Fővárosi Közigazgatási és Munkaügyi Bíróság (Budapest Court of Public Administration and Labor) for the review of the ruling. The Fővárosi Közigazgatási és Munkaügyi Bíróság shall adopt a decision in non-contentious proceedings within eight days; no further appeal lies against such ruling. In the event of the electronic service provider's failure to comply with the obligation of data disclosure in due time, and for supplying incomplete or false information to the Office, the Office may impose the sanctions specified in Section 156. The Office shall forward the received data to the Media Commissioner.

(4) In the course of his proceedings, the Media Commissioner shall conduct verbal or written consultations with the electronic communications service provider concerning the infringement (in the application of this Section hereinafter referred to as "conciliation procedure"). The Media Commissioner shall involve the complainant in the conciliation procedure - to the extent deemed expedient and if so requested by the complainant - and, if the matter concerns a large number of consumers, the representative of the association for the protection of consumers.

(5) In the conciliation procedure the Media Commissioner shall furnish the description of the infringement to the electronic communications service provider to make its opinion known within the prescribed time limit of fifteen days.

(6) In justified cases, the Media Commissioner - on the basis of the written statement or response of the electronic communications service provider - shall call the representative of the service provider affected and/or - if needed - the complainant or the representative of the association for the protection of consumers to present their arguments in person.

(7) In the event that the Media Commissioner and the electronic communications service provider fail to reach an agreement to eliminate the infringement, the Media Commissioner shall record the results of the conciliation procedure in minutes, and shall proceed according to Subsection (9). If the conciliation procedure is successful, the Media Commissioner and the electronic communications service provider affected shall make out the agreement in writing, which the Media Commissioner shall send to the complainant, and/or shall post the agreement on his website. In the agreement the parties shall provide for the manner of eliminating the infringement.

(8) The agreement is a concordant and voluntary representation by the parties concluded between the Media Commissioner and the electronic communications service provider affected under which the users, subscribers, consumers of the particular electronic communications services will acquire contractual rights. No obligations shall be imposed upon the users, subscribers or consumers arising out of or in connection with the agreement. The provisions of the agreement shall constitute part of the relationship of the particular users, subscribers, consumers with the electronic communications service provider affected, whereby the provisions of the agreement will be applicable in individual cases and the users concerned, subscribers or consumers may make a reference to these provisions in individual cases, where the Authority shall have the right to monitor compliance with the provisions of the agreement by means of exercising administrative supervision. The Authority shall take into account the extent of cooperation on the part of the electronic communications service provider having entered into an agreement as defined in this Subsection also in other official cases in which the electronic communications service provider is involved.

¹ Amended: by subparagraph a) paragraph (6) Section 69 of Act CCXI of 2012. In force: as of 1. 01. 2013.

(9) The Media Commissioner shall record the outcome of the conciliation procedure, if successful, in a report, or in each case where no agreement is reached upon the conciliation procedure, and shall send a copy of this report to the complainant, the electronic communications service provider affected and to the association for the protection of consumers having participated in the procedure. In addition to the particulars of the infringement, the Media Commissioner in its report shall describe the conduct of the electronic communications service provider in detail as to how it handled the infringement, and, in particular, its willingness to cooperate in eliminating the infringement and in enhancing consumer well-being. The Media Commissioner shall publish his report when it covers issues that affect or may affect a large number of consumers or may issue a recommendation or information for the consumers with a view to avoiding further injuries. The electronic communications service provider affected shall inform the Media Commissioner of the measures taken within the deadline prescribed by the Media Commissioner of at least fifteen days, if no agreement is reached.

Proceedings of the Media Commissioner in Connection with Complaints Relating to Media Services and Press Products¹

Section 142/A²

(1) In the course of his proceedings relating to an infringement specified in Subsection (1) of Section 140, the Media Commissioner shall conduct verbal or written consultations with the self-regulatory trade organizations or interest groups of media service providers (for the purposes of this Section hereinafter referred to as "professional body") concerning the infringement (for the purposes of this Section hereinafter referred to as "conciliation procedure").

(2) The Media Commissioner shall have powers to proceed in connection with a complaint if:

a) it pertains to any repeated infringement by a media content provider, or to any conduct of more than one media content provider resulting in an infringement, and

b) if the infringement to which it pertains concerns the majority of viewers, listeners and readers.

(3) The Media Commissioner shall notify the media content provider concerning any complaint lodged in connection with its activities, and shall permit the media content provider to present its argument in all stages of the conciliation procedure.

(4) In the conciliation procedure the Media Commissioner shall furnish the description of the infringement affecting the majority of viewers, listeners and readers to the professional bodies to make their opinion known within the prescribed time limit.

(5) The Media Commissioner shall present during the conciliation procedure a proposal to resolve the complaint, and shall send it to the professional bodies. The Media Commissioner shall draw up the proposal with a view to protecting the interests of viewers, listeners and readers, taking also into consideration the views of the professional bodies and the media content provider affected.

(6) In justified cases, the Media Commissioner - on the basis of the response of the professional bodies and the media content provider affected - shall call the complainant, the professional bodies involved and the media content provider affected to present their arguments in person.

(7) The Media Commissioner shall record the outcome of the conciliation procedure in a report, and shall send a copy of this report to the complainant, the media content provider affected and to the professional bodies involved. In addition to the particulars of the infringement, the Media Commissioner in its report shall describe the proposed solutions together with the reply and comments of the media content provider and the professional bodies. The Media Commissioner shall not be allowed to make the report public.

(8) In the application of this Section, the time limit specified in Subsection (2) of Section 142 shall apply to drawing up the proposal mentioned in Subsection (5). This time limit shall not cover:

a) the time required for opening under Subsection (4),

b) the time required for a professional assessment, if an expert is involved during the conciliation procedure.

¹ Enacted: by Section 23 of Act LXVI of 2012. In force: as of 19. 06. 2012.

² Enacted: by Section 23 of Act LXVI of 2012. In force: as of 19. 06. 2012.

The Media Commissioner_s Report¹

Section 143²

The Media Commissioner shall prepare a quarterly report on his findings revealed in his proceedings, the outcome of the proposals as well as on his reports and recommendations - on cases involving electronic communications service providers - for the President and - on cases involving media content providers - for the Media Council. The report made for the Media Council shall be limited to the Media Commissioner_s overall observations, without revealing the particulars of media content providers.

Chapter IV

PROVISIONS ON THE PROCEDURES OF THE MEDIA COUNCIL AND THE OFFICE OF THE NEMZETI MÉDIA- ÉS HÍRKÖZLÉSI HATÓSÁG

Application of the General Provisions of Administrative Proceedings

Section 144

(1) The Media Council and the Office (for the purposes of this Chapter hereinafter referred to as _Authority") shall proceed in accordance with the provisions of the APA, subject to the exceptions set out in this Act.

(2) The members and the chairperson of the Media Council shall have equal votes, that is to say each person shall have one vote.

(3) The Media Council shall have quorum when more than half of the members are in attendance, including the chairperson of the Media Council.

(4) The Media Council shall adopt its decisions - with the exception set out in Subsection (7) of Section 129 - requiring simple majority of all members of the Media Council, including the chairperson of the Media Council.

Notifier

Section 145

(1)³ Anyone not deemed to be a client for the purposes of the subject of the notification or otherwise under the law (hereinafter referred to as _notifier") may submit a notification addressed to the Authority in matters falling within the scope of responsibilities and competence of the Authority defined in this Act, alleging infringement of media regulations.

(2) The notification shall contain the notifier_s particulars, the grounds for the Authority_s proceeding, or the actions or conduct in connection with which the violation of media regulations is alleged, as well as the facts on which the notification is based.

(3) The Authority shall have the right to open proceedings *ex officio* on the basis of the notification at its discretion. If the Authority declines to open proceedings on the basis of the notification, it shall duly inform the notifier accordingly, by way of official correspondence, without having to specify the reasons therefor.

¹ Established: by Section 23 of Act LXVI of 2012. In force: as of 19. 06. 2012.

² Established: by Section 23 of Act LXVI of 2012. In force: as of 19. 06. 2012.

³ Amended by Subsection (76) of Section 64 of Act CVII of 2011.

(4) The notifier shall not be involved in the administrative proceedings opened on the basis of the notification, and the notifier shall not have the right to appeal against the decision of the Authority passed in the administrative proceedings initiated *ex officio*.

(5) The notifier may request to have his data to be handled strictly confidentially pursuant to Subsection (2) of Section 153.

(6)¹

Succession

Section 146

(1) The client having acquired rights under a final and binding resolution may be replaced by its successor.

(2) The client bound by an obligation under a final and binding resolution may be replaced by its successor to the extent allowed by law. A successor may voluntarily fulfill an obligation established by final and binding resolution, where the delivery deadline may be extended upon the successor's request on one occasion in justified cases. The Authority and the successor may also incorporate this agreement in a public contract.

(3) In case of an obligation established under a final and binding resolution, a third party to whom the original (predecessor) client bound by obligation assigns the terms of its operations under a contract may also be recognized as a successor to such client.

(4) In the event where succession takes place in the course of administrative proceedings and succession is based on legislation, the Authority shall establish the fact of succession in its ruling. Such ruling may not be appealed separately.

(5) In the event where succession takes place in the course of administrative proceedings and succession is based on a contract, the Authority shall establish the fact of succession necessary for exercising its scope of official powers in its ruling. Such ruling may not be appealed separately.

Confidentiality

Section 147

(1) Persons currently or formerly employed by the Authority as civil servants or in any other work-related relationship shall keep confidential any personal data, classified information 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 required to make available to the public - except for any disclosure or supply of data to other organizations under the relevant legislation -, during the term of their employment and after the termination thereof.

(2) The persons mentioned in Subsection (1) may not disclose unlawfully any data, facts or circumstance they obtained in connection with the performance of their official duties, nor shall they be allowed to use or reveal such information to third persons.

Electronic Communication

Section 148

In connection with the Authority's jurisdiction and proceedings under this Act, the Authority may order electronic communication as mandatory.

Commencement of Proceedings

¹ Repealed by Subsection (76) of Section 64 of Act CVII of 2011, effective as of 3 August 2011.

Section 149

(1) The Authority may open proceedings in matters falling within its competence *ex officio*, except where the proceedings may be opened only upon request according to this Act.

(2) Where the Authority becomes aware of an infringement outside the scope of a particular official matter that is, however, closely or indirectly related to such matter, it may *ex officio* extend its proceedings to cover that particular matter, before passing its official decision. The parties involved shall be notified of the *ex officio* extension of the proceedings in accordance with the relevant provisions of the APA. On the *ex officio* extension of the proceedings, the administrative time limit shall be extended by the period of time applicable to the particular proceedings.

(3) The proceedings of the Authority shall be subject to an administrative procedural service fee as defined in specific other legislation.

(4)¹ In connection with any infringement related to media content, regulatory proceedings may be initiated (by way of petition or notification) within three months from the time of publication of the media content, or from the time of first publication if published on a regular basis.

(5)² If the petitioner gained knowledge of the infringement subsequently, or if he was unable to submit the petition or notification in due time, the time limit referred to in Subsection (4) shall begin at the time of gaining knowledge or the time the obstruction is eliminated. In connection with any infringement related to media content, regulatory proceedings may not be requested after six months from the time of publication of the media content, or from the time of first publication if published on a regular basis. The above-specified time limit shall apply with prejudice.

(6)³ In connection with any infringement of Sections 14 and 16-20 of the Press Act, or Sections 9-11, Subsections (3)-(4) of Section 12, Section 14 and Sections 23-36 of the Media Act, the authority may open regulatory proceedings within one year of the time of publication of the media content, or from the time of first publication if published on a regular basis.

Powers and Jurisdictions

Section 150

In the absence of powers and jurisdiction, the Authority - without assessment or transfer by an authority vested with powers and jurisdiction - shall have the right to refuse the application and/or discontinue the proceedings without examination thereof as to merits.

Administrative Time Limits

Section 151

(1) Unless otherwise provided for in this Act, the administrative time limit for the Authority_s proceedings shall be forty days.

(2) In justified cases, this time limit may be extended once by not more than thirty days.

Applications

Section 152

¹ Enacted by Subsection (51) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

² Enacted by Subsection (51) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

³ Enacted by Subsection (51) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011. Amended: by subparagraph d) Section 8 of Act XXXIII of 2013. In force: as of 5. 04. 2013.

Clients shall submit their applications using the prescribed form, or using the standard electronic form in the cases where electronic communication is exclusive, in the notification procedures defined in Sections 42-47.

Access to Documents for Inspection, Secrets Protected by Law

Section 153

(1) Persons in the employment or other work-related contractual relationship with the Authority, participating in case management, shall be entitled to have access without restrictions to any related 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 handled confidentially, with due regard to the protection of secrets protected by law, in particular business secrets or other equitable interests as well as any major media policy considerations, with the exception of data that are considered public information and data that cannot be classified as secrets protected by law according to the relevant legislation. In this case the client and/or other parties to the proceedings shall produce a copy of the document that does not contain the data defined above.

(3) The Authority shall process the data referred to in Subsection (2) separately among the documents of the case, confidentially. The Authority shall ensure that confidential data will be kept confidential in the course of procedural steps.

(4) Access to any confidential data shall be authorized only for the officer in charge, the keeper of the minutes, the directors of the Authority, members of the Media Council, the competent public prosecutor and the judge hearing the judicial review.

(5) To the extent required to perform their duties in relation to the subject of the official matter, other administrative authorities or government agencies may also have access to restricted data - as determined by the Authority - provided that such bodies are able to ensure the level of protection for the data thus transferred they had at the transferring authority.

(6) With a view to securing the right of access to documents, the Authority shall prepare an extract of the documents of the case - subject to formal and content requirements defined by law -, with all information of reference to the data specified in Subsection (2) above removed.

(7) To the extent required for proper application of the law, as well as enforcement of legislation and ensuring that clients may properly exercise their rights, the Authority may request the client and other parties to the proceedings to lift the requirement of confidentiality defined under Subsection (2).

(8)¹ If the client and other parties to the proceedings refuse to lift the requirement of confidentiality defined under Subsection (2), the Authority - to the extent required for proper application of the law or the enforcement of rights vested with clients - may order the classification of confidentiality to be removed by way of a ruling. This ruling may be challenged by the client or other parties to the proceedings by submitting an appeal to the Fővárosi Közigazgatási és Munkaügyi Bíróság (Budapest Court of Public Administration and Labor), having suspensory effect; the court shall hear the appeal in non-contentious proceeding and shall adopt a decision within eight days under priority. The decision of the Fővárosi Közigazgatási és Munkaügyi Bíróság may not be appealed further.

Exclusions

Section 154

¹ Amended: by subparagraph b) Section 391 of Act CCI of 2011. In force: as of 1. 01. 2012. Amended: by subparagraph b) paragraph (6) Section 69 of Act CCXI of 2012. In force: as of 1. 01. 2013.

(1) In addition to what is contained in the APA pertaining to exclusions, no person shall participate in a decision-making process whose relationship, covered in Paragraph *a)* with the client, or with an organization with a qualifying holding in the client or in which the client has a qualifying holding, existed within one year preceding the date of the opening of the procedure, or whose relative:

a) is engaged in employment or other work-related contractual relationship with or has membership in, the client, or is an executive officer of the client;

b) has an ownership interest in the client;

*c)*¹ is engaged in employment or other work-related contractual relationship with a natural or legal person, or has membership in, or is an executive officer of, or has a participating share in a legal person or unincorporated organization which maintains regular business relations with the client;

d) is engaged in a working contractual relationship with an organization which is the supervisory or a subsidiary body of the client, or which granted support or an exclusive entitlement to the client, exclusive of any working contractual relationship with the Fund or the Authority.

(2) The acting officer of the Office shall forthwith report to the executive director any grounds for exclusion in his case. The acting officer of the Office shall be subject to disciplinary sanctions and financial liability for any failure to comply with the obligation of notification in due time. The decision on the exclusion of a particular officer of the Office lies with the executive director and he shall appoint the officer acting on behalf of the Office where deemed necessary.

(3) The executive director is required to notify the President without delay concerning the existence of any grounds for exclusion on his part. The executive director shall be subject to disciplinary sanctions and financial liability for any failure to comply with the obligation of notification in due time. The decision on the exclusion of the executive director lies with the President. Where there are grounds for the exclusion of the executive director, the President in making his decision shall assess whether the executive director may proceed in the particular case under the condition that he shall notify the President of his decision or the President will select one of the deputy directors to proceed.

(4) If the client's motion for exclusion is manifestly unfounded, the client may be subject to a procedural fine, in the amount specified in Section 156, in the ruling in which exclusion is refused.

(5) The decision on the exclusion of a Media Council member lies with the Media Council. The member thus excluded may not participate in the handling of the case in its merits. When any ground for exclusion renders the Media Council non-quorate, the Media Council will proceed with the involvement of the excluded members in accordance with the relevant provisions of the APA, irrespective of their grounds for exclusion, with such members having a right to vote.

(6) When there are grounds for exclusion in the case of the President, the Vice President appointed by the President shall proceed in the handling of the case in its merits.

Establishing the Relevant Facts of a Case

Section 155²

(1) In the process of ascertaining the relevant facts of a case, the Authority may also apply the regulations of the APA relating to ascertaining the relevant facts of a case and regulatory inspections, subject to the exceptions set out in Subsections (2)-(10).

(2) With a view to ascertaining the relevant facts of the case, the Authority shall have the right to inspect, examine and make duplicates and extracts of any and all medium containing data, document and written instrument - even if containing business secrets - related to media services, publication of press products and/or broadcasting.

(3) With a view to ascertaining the relevant facts of the case, the Authority may order:

a) the client, and

¹ Amended by Paragraph 1) of Subsection (2) of Section 125 of Act CCLII of 2013.

² Established: by Section 24 of Act LXVI of 2012. In force: as of 3. 07. 2012.

b) other parties to the proceedings, the agents and employees of the client and other parties to the proceedings and persons in other relationships with the client and other parties to the proceedings, and, furthermore, in exceptional and justified cases, other persons and organizations (in the application of this Section hereinafter referred to collectively as *_other parties to the proceedings*"),

to make a statement and to supply data and information in a comparable format defined by the Authority, as well as other information either verbally or in writing (in the application of this Section hereinafter referred to collectively as *_data disclosure*"), indicating also the legal ramifications of non-compliance for any failure to comply with this obligation in due time as defined in Section 156 of this Act.

(4)¹ The ruling referred to in Subsection (3) may be challenged by those other parties to the proceedings who were ordered to supply data by submitting an appeal to the Fővárosi Közigazgatási és Munkaügyi Bíróság (Budapest Court of Public Administration and Labor), having suspensory effect; the court shall hear the appeal in non-contentious proceeding and shall adopt a decision within eight days under priority. No further appeal lies against the decision of the Fővárosi Közigazgatási és Munkaügyi Bíróság.

(5) Within the meaning of Subsections (2) and (3):

a) any document, asset or written instrument obtained during or for the purpose of communications between the client and his legal representative, or that is a record of the contents of such communications, provided in all cases that the nature of these documents is readily apparent from the document, asset or written instrument itself, may not be admissible as evidence, they may not be examined or seized, and the holder of such document, asset or written instrument may not be compelled to produce them for the purpose of inspection,

b) the Authority may not order media content providers and the persons they employ under contract of employment or some other form of employment relationship to supply information or to surrender any document, asset or written instrument, if this would expose the identity of any person from whom they receive information relating to the media content they provide.

(6) The exemption under Subsection (5) shall remain to apply after the underlying relationship is terminated. The client shall have the right to waive the prohibition under Paragraph a) of Subsection (5).

(7)² The Authority's ruling adopted despite of reference to the exemption under Subsection (5) for data disclosure or for surrendering any document, asset or written instrument may be appealed by the client or other parties to the proceedings at the Fővárosi Közigazgatási és Munkaügyi Bíróság, having suspensory effect; the court shall hear the appeal in non-contentious proceeding and shall adopt a decision within eight days under priority. No further appeal lies against the decision of the Fővárosi Közigazgatási és Munkaügyi Bíróság.

(8) A witness may be heard on the business secret of the client even if he was not granted exemption from the obligation of confidentiality from the client.

(9) In particularly justified cases, the Authority shall have the right to resort to the written instruments, data, documents and other means of evidence generated in the course of its proceedings also for the purposes of another proceeding, where deemed necessary for reducing the procedural burden on clients or for proper and effective application of the law.

(10) Media service provider shall retain the authentic documentation relating to their programs, including the full record of the output signal of the media services on the whole, for a period of sixty days from the date of broadcast or in case of on-demand media services, from the last date of accessibility of content. For the purposes of regulatory inspection, the Authority may order media service providers to make available said authentic documentation relating to their programs to the Authority without delay and free of charge within the time limit prescribed for retention. In connection with any regulatory proceedings or litigation in progress relating to media services, the media service provider shall retain the documents for a period of one year following the final and binding conclusion of the proceedings.

Administrative Fine

¹ Amended: by subparagraph c) paragraph (6) Section 69 of Act CXXI of 2012. In force: as of 1. 01. 2013.

² Amended: by subparagraph d) paragraph (6) Section 69 of Act CXXI of 2012. In force: as of 1. 01. 2013.

Section 156¹

(1) In case of obstruction of the proceedings, the Authority shall have the right to impose an administrative fine upon the client, and any other party to the proceedings, and any person who is required to cooperate in the process to ascertain the relevant facts of the case if, during the course of the proceedings, such parties act or behave in such a manner as to prolong or obstruct the proceedings or to prevent the actual facts of the case from being established.

(2) The maximum amount of the administrative fine shall be twenty-five million forints, one million forints in the case of natural persons.

(3) In addition to what is contained in Subsections (1)-(2), the Authority shall have powers - and in case of repeated offence, shall be obliged - to impose a fine upon the infringer_s executive officer for any case of obstruction of the proceedings or for breaching or non-compliance with the obligation to data disclosure in an amount up to three million forints.

(4) When setting the amount of the administrative fine, the Authority shall take into account the infringer_s net turnover from the previous year and the fact whether the offense was committed on one or more occasions.

Public Hearing

Section 157

(1) Where so required under this Act or to the extent it deems necessary and justified to perform its duties, the Authority - with a view to consulting media regulations and the measures to enforce thereof, or to obtaining the experts_ positions and opinions on laying down the groundwork for the proper application of media regulations - shall hold a public hearing to which media service providers, providers of complementary media services, publishers of press products, broadcasters, intermediary service providers, self-regulatory professional organizations, civil associations and others shall be invited.

(2) Unless otherwise provided for by this Act, the Authority shall publish a notice for the public hearing, including the date and place and the agenda, at least thirty days in advance.

(3) The Authority shall publish all preliminary documents, excluding business secrets, relating to the agenda of the public hearing at least ten days in advance.

Section 158

(1) The Authority shall post any electronic documents it has received in connection with the public hearing on its official website if received at least eight days before the scheduled date of the hearing.

(2) The Authority shall draw up a summary report or minutes on the public hearing containing the comments and views presented during the hearing, except for the data that is classified as business secrets of the person presenting the opinion or recommendation. The Authority shall publish the summary report within thirty days following the date of the hearing.

Consultations with the Parties Concerned on Issues of Key Importance

Section 159

¹ Established by Subsection (52) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

(1) To the extent it deems necessary, the Media Council shall open a dialogue with the parties concerned in cases falling within its jurisdiction (hereinafter referred to as "consultation"). To this end, the Authority shall publish the draft of its decision at least fifteen days in advance, as well as the preparatory documents necessary for the consultations related to the decision on hand, with the exception of restricted data.

(2) Within eight days from the date of publication of the draft decision referred to in Subsection (1), any person may present his views, opinion or comment (hereinafter referred to as "comment") concerning the proposed decision in writing to the Media Council. The Media Council shall not be bound by the comments so received, they shall be accepted for information purposes only, with no obligation on the part of the Media Council to take them into account in the decision-making process.

(3) The Media Council shall not be under obligation to justify the necessity to hold consultations or when consultations are held to justify the reasons for taking comments into account or for ignoring them.

(4) The party having submitted any comment under Subsection (2) shall not become a party to the proceedings relating to the decision to which the consultations pertain, by virtue of the fact of submitting a comment. Parties concerned shall not have the right to redress within the context of their comments, even in relation to the portions of the official decision pertaining to those comments.

Public Contract

Section 160

(1) In cases defined in this Act, the Authority shall have powers to conclude a public contract with a client in accordance with the provisions of the APA, subject to the exceptions set out in this Act.

(2) Under the contract concluded with the Authority, the client may assume obligations that are beyond the scope of competence of the Authority or compliance therewith on the part of the client could not be prescribed otherwise under an official decision. In this case, under the public contract the client agrees that in case of non-compliance on his part with the provisions of the contract, the entire contract shall be construed as a final and enforceable resolution.

(3) The public contract may be concluded with effect irrespective of the approval of third parties, whose rights and lawful interests are affected by the contract, regarding the contractual terms and conditions that could be imposed on the contractual party by way of the official decision under the relevant legislation.

(4) The administrative time limit for conclusion of the official matter under a public contract as defined in Section 151 shall apply subject to the exceptions set out in this Act.

Section 161

(1) The Authority shall verify compliance with the provisions of the public contract in the course of a regulatory inspection. When under the regulatory inspection the Authority finds any infringement of the public contract by the client, it shall assess - on the basis of the findings of the inspection, the gravity of the breach of contract, effective enforcement of rights, the social, economic and legal environment and the relevant principles and objectives under media regulations, as well as effective enforcement of public interest underlying the contract - whether to open enforcement proceedings as defined in the APA or institute administrative proceedings to apply the legal consequences set out in this Act, in connection with any violation of the decision.

(2)¹ If the Authority has decided to open enforcement proceedings, the client may request to have the enforcement order reviewed - alleging infringement of the law - at a court of jurisdiction for administrative actions within fifteen days of delivery of the ruling. The court shall adopt a decision in non-contentious proceeding, upon hearing the parties if necessary, within fifteen days. Lodging a petition for non-contentious proceedings shall have suspensory effect on the enforcement of the decision. The ruling of the Fővárosi Közigazgatási és Munkaügyi Bíróság (Budapest Court of Public Administration and Labor) may not be appealed.

(3) If the Authority - under Subsection (1) - opens proceedings to apply the legal consequences specified in this Act, no separate appeal shall lie against the opening of the proceedings.

(4) In the administrative proceedings opened on the basis of the findings of the regulatory inspection - on account of breach of contract by the client - the Authority may apply the legal consequences defined in Section 187 and in the public contract.

(5) In the case of serious or repeated breach of contract by the client, the Authority may - unless provided otherwise in the public contract - terminate the contract with immediate effect.

(6) As regards the amendment of the public contract, a court action shall not affect the fulfillment and enforcement of the said contract and shall not have suspensory effect on the fulfillment and enforcement of the said contract.

Notices

Section 162

(1) The Authority shall comply with the provisions of the APA on public disclosure by means of a notification posted on its website.

(2) The Authority shall publish its decisions, and the relevant court orders through its website, with due consideration of the protection of personal data and restricted data handled in the proceedings.

(3) Where notification by way of public notice is permitted by law, the notice shall be made public by displaying the notice on the bulletin board of the Authority and by posting such notice on the website of the Authority.

Legal Remedies

Section 163

(1) The resolutions adopted by the Media Council in its regulatory capacity in the first instance may not be appealed. The resolution of the Media Council may be challenged in court by the client, - and as regards the provisions expressly applicable to him - the witness, the official witness, the expert, the interpreter, the owner of the object for inspection, the representative of the client and the official mediator - alleging infringement of the law -, at the court of jurisdiction for administrative actions within thirty days upon delivery of the official resolution by lodging a claim against the Media Council.

(2) The court proceedings opened under a petition for the review of the Media Council's resolution shall be governed by the provisions of the Act on the Code of Civil Procedure on administrative actions, subject to the exceptions set out in this Act.

(3) Submission of the claim shall not have suspensory effect on the execution of the resolution; the court may be requested to suspend the execution of the challenged decision.

(4) The Media Council shall forward the claim - together with the documents and representations of the case - to the court within fifteen days of receipt thereof.

(5) The petition for non-contentious proceedings against the rulings of the Media Council that may be challenged by means of a separate appeal shall be submitted within fifteen days of delivery of the ruling.

¹ Amended: by subparagraph c) Section 391 of Act CCI of 2011. In force: as of 1. 01. 2012. Amended on the base: of subparagraph e) paragraph (6) Section 69 of Act CCXI of 2012. In force: as of 1. 01. 2013.

(6) The official decisions of the Media Council shall not be subject to supervisory action.

Section 164¹

(1) The court shall adopt its decision within thirty days in proceedings under Section 163 in the first and second instance as well.

(2)² The judicial review proceedings shall fall within the exclusive competence of the Fővárosi Közigazgatási és Munkaügyi Bíróság (Budapest Court of Public Administration and Labor).

(3) The court may overturn the resolution of the Media Council.

Section 165

(1) The client shall have the right to appeal at the Media Council against the official decision of the Office passed under this Act, with the exception of decisions that cannot be appealed under the APA or under this Act.

(2) The resolution of the Office adopted in the first instance may be challenged under an appeal by the client having been a party to the proceedings of the first instance.

(3) The resolution of the Media Council adopted in the second instance may be challenged in court by the client, - and as regards the provisions expressly applicable to him - the witness, the official witness, the expert, the interpreter, the owner of the object for inspection, the representative of the client and the official mediator - alleging infringement of the law -, at the court of jurisdiction for administrative actions within thirty days upon delivery of the official resolution by lodging a claim.

(4) Submission of the claim shall not have suspensory effect on the execution of the resolution; the court may be requested to suspend the execution of the challenged decision.

(5) The petition for non-contentious proceedings against the rulings of the Office that may be challenged by means of a separate appeal shall be submitted within fifteen days of delivery of the ruling.

(6)³ The judicial review proceedings shall fall within the exclusive competence of the Fővárosi Közigazgatási és Munkaügyi Bíróság (Budapest Court of Public Administration and Labor).

Proceedings of the Authority

Section 166

The Authority shall conduct its proceedings referred to in Sections 68-70 and 167-181 in accordance with the relevant provisions of the APA and this Act, subject to the exceptions specified for the various types of proceedings.

General Administrative Supervision

Section 167

(1)⁴ Upon request or *ex officio*, the Authority - within the context of its scope of responsibilities and competence - shall have the right to supervise within a regulatory inspection or administrative proceedings compliance with the provisions laid down in this Act and the Press Act, as well as fulfillment of the terms and conditions set out in its official decisions, in broadcasting agreements and in public contracts.

¹ Shall enter into force as under Section 11 of Act CLXXIX of 2010.

² Amended: by subparagraph c) Section 391 of Act CCI of 2011. In force: as of 1. 01. 2012. Amended: by subparagraph f) paragraph (6) Section 69 of Act CCXI of 2012. In force: as of 1. 01. 2013.

³ Amended: by subparagraph c) Section 391 of Act CCI of 2011. In force: as of 1. 01. 2012. Amended: by subparagraph g) paragraph (6) Section 69 of Act CCXI of 2012. In force: as of 1. 01. 2013.

⁴ Amended by Subsection (53) of Section 64 of Act CVII of 2011.

(2) If in the process of monitoring compliance with its official decision the Authority detects any violation of the decision based on the findings of such proceedings, it shall assess - on the basis of all circumstances of the case, the facts revealed by the inspection, the gravity of the violation, effective enforcement of rights - whether to open enforcement proceedings as defined in the APA, or administrative proceedings to apply the legal consequences set out in this Act, alleging violation of the said decision.

(3) The Authority shall have powers to apply the sanctions defined in Chapter V in cases of infringements revealed in the course of general administrative supervision.

Market Surveillance

Section 168

(1) The Media Council - within its scope of competence - with a view to protecting the smooth, successful and diverse operation of the media market and protecting the interests of those engaged in broadcasting and in media services, publishers of press products, viewers, listeners, readers, subscribers and users as well as preserving the diversity of the national culture and opinions, promoting fair and effective market competition, learning about market trends and the comprehensive assessment, analysis and official supervision of media policy considerations and other purposes defined in this Act shall perform market surveillance activities.

(2) Any specific market surveillance procedure may cover a number of official powers and cases - under the Press Act and this Act - within comprehensive administrative proceedings.

(3) The Media Council - in performing its duties defined under Subsection (1) - shall prepare an annual market surveillance plan with due consideration of the findings of previous year_s market surveillance activities by 1 December of the year preceding the subject year and shall publish the same on its website within fifteen days. The Media Council shall ensure that its market surveillance plans are in accordance with one another. The plans may be reviewed at the end of the first half-year period to assess the latest observations, and may be amended, if necessary, by the Media Council. The Media Council shall post its modified market surveillance plan on its website within fifteen days of its modification.

(4) Market surveillance procedures shall be opened *ex officio*.

(5) The administrative time limit of market surveillance procedures shall be sixty days. In justified cases, the time limit may be extended on one occasion, by up to forty-five days.

(6) In its comprehensive and consolidated official 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 identify events constituting infringement, make an assessment of these instances both on an individual and aggregate basis and shall determine the legal consequences by applying the provisions of Chapter V as appropriate. In its market surveillance decision, the Media Council may impose obligations and define the terms of their fulfillment, when no infringement has occurred.

b) determine the directions, methods, criteria for development and reshaping (if any) state intervention with a view to preventing infringement of legislation, voluntary compliance with the law and smooth flow of market trends and any conclusions that may arise in media policy.

(7) The Media Council shall prepare an annual report on the fulfillment of the objectives set out in the market surveillance plans, the results and findings of its market surveillance operations and its proposals on the amendments of legislation that may arise 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 operations *ex officio* beyond the scope of the market surveillance plan.

Sectoral Inquiries in the Media Market

Section 169

(1) The Media Council shall - with a view to identifying and analyzing market processes - open regulatory proceedings, by means of a ruling, to monitor compliance with the provisions of this Act and to investigate whether the regulatory powers conferred in this Act should be invoked if any price movements or other market conditions suggest that competition on a media services market is being distorted or restricted.

(2) This procedure of the Market Council shall be without prejudice to the competence of the Gazdasági Versenyhivatal (*Hungarian Competition Authority*) to conduct a sectoral inquiry under the Act on the Prohibition of Unfair and Restrictive Market Practices.

(3) The Media Council shall, by way of public notice, notify media service providers concerning the opening of regulatory inspection. Said notification shall, by way of derogation from the APA, contain the subject matter of the inspection and a brief description thereof. The statement of reasons of the said ruling shall also specify the market conditions that warranted a sectoral inspection. The ruling shall be made public by means of public notice posted on the Authority_s bulletin board, and it shall be published on the Authority_s official website as well. The ruling on the opening of the proceedings shall be deemed served on the fifteenth day of display on the Authority_s bulletin board.

(4) The amount of the administrative fine that may be imposed in a sectoral inquiry - taking into account the infringer_s net turnover from the previous year and the fact whether the offence was committed on one or more occasions - shall be 0.5 per cent of the infringer_s turnover, or, in the absence of revenues or any information as to turnover, it shall be between fifty thousand and fifty million forints. Additionally, in case of failure to comply, or improper compliance with data disclosure requirements, the Media Council shall have powers - and in case of repeated offence, shall be obliged - to impose a fine upon the infringing media service provider_s executive officer in an amount between fifty thousand and three million forints.

Section 170

(1) If based on the findings of the regulatory inspection, the Media Council finds that competition may be distorted or restricted in any segment of the media services market stemming from the market processes examined, and considers that this situation cannot be remedied by exercising the powers conferred in this Act, the Media Council may move to initiate the supervisory proceedings of the Gazdasági Versenyhivatal (*Hungarian Competition Authority*).

(2) The Gazdasági Versenyhivatal shall not open supervisory proceedings as the Media Council has requested under Subsection (1) if a sectoral inspection is already in progress with respect to the same subject matter and the same period, or if the Gazdasági Versenyhivatal had already concluded a sectoral inspection with respect to the same subject matter and the same period beforehand, of which the Gazdasági Versenyhivatal shall notify the Media Council accordingly.

(3) If there are no grounds for initiating the supervisory proceedings, or it cannot be opened for lack of jurisdiction, or if a specific case of identified market distortion cannot be remedied under the Media Council_s or the Office_s own jurisdiction, it shall notify the body authorized to enact legislation.

Proceedings of the Media Council as the Authority of Competence

Section 171

(1) The Gazdasági Versenyhivatal (*Hungarian Competition Authority*) shall obtain the opinion of the Media Council for the approval of concentration of enterprises under Section 24 of the Act LVII of 1996 on the Prohibition of Unfair and Restrictive Market Practices (hereinafter referred to as "Competition Act"), such enterprises or the affiliates of two groups of companies as defined in Section 15 of the Competition Act bearing 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) The Media Council - with the exception set out in Subsection (2) of Section 68 - shall not have the right to refuse granting official approval, when the level of merger between independent sources of opinion after the merger will ensure the right for diversity of information within the relevant market for the media content service.

(3) The official requirement or condition imposed by the Media Council may be applied in a resolution in the merits of a case in accordance with Subsection (3) of Section 30 of the Competition Act.

(4) The official assessment of the Media Council shall be binding upon the Gazdasági Versenyhivatal, however, this fact does not prevent the Gazdasági Versenyhivatal from:

a) prohibiting a merger from being concluded that is already officially approved by the Media Council irrespective of any condition the Media Council may have imposed, or

b) imposing a condition or an obligation as defined in Subsection (3) of Section 30 of the Competition Act that the Media Council failed to impose.

(5) The time limit for the proceedings of the Media Council as the authority of competence shall be twenty days, which may be extended on one occasion by another twenty days. The time limit of the competition surveillance procedure shall not include the period available for the proceedings of the Media Council as the authority of competence. Failure by the Media Council to issue its opinion shall be construed as if it was granted.

(6) The amount of the administrative service fee payable to the Media Council for its procedure as administrative authority shall be two million forints, payable to the Gazdasági Versenyhivatal together with the procedural fee as defined in Subsection (1) of Section 62 of the Competition Act, except if the applicant had submitted a request for a preliminary approval as defined under Subsection (7).

(7) At the request of the applicant mentioned in Section 68 of the Competition Act, the Media Council shall issue a preliminary official approval on payment of the administrative service fee under Subsection (6). The preliminary official approval may be requested from the competent authority by the time of submission of a request for approval of merger or by the end of the period defined in Subsection (2) of Section 28 of the Competition Act, and this approval shall be valid for a period of six months from the date of issue, provided that facts of the case, the market or the regulatory environment of import for the purposes of the official approval remained unchanged since the date of issued of the official assessment. The preliminary official approval issued by the Media Council or the request for approval shall be attached to the form specified in Subsection (2) of Section 68 of the Competition Act. When a specific requirement or condition laid down in the preliminary official approval issued by the Media Council contradicts an obligation or condition deemed necessary by the Gazdasági Versenyhivatal in part or in full, the bodies involved shall proceed as described in Subsection (2) of Section 45 of the APA.

Settlement of Disputes

Section 172

(1)¹ Any media service provider, provider of complementary media services, publisher of press products or broadcaster whose right or lawful interest related to media services as prescribed media regulations or under contract governed by such regulations is violated by another media service provider or broadcaster, and also in cases defined by this Act, may contact the Media Council to conduct proceedings for action in dispute (hereinafter referred to as "proceedings for action in dispute"). Proceedings for actions in dispute may be requested within six months from the time of occurrence of the infringement. If the petitioner gained knowledge of the infringement subsequently, or if he was unable to submit the petition in due time, the six-month time limit shall begin at the time of gaining knowledge or the time the obstruction is eliminated. Proceedings for action in dispute may not be requested after one year of the time of occurrence of the infringement. The above-specified time limit shall apply with prejudice.

¹ Established by Subsection (54) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

(2) The petition for proceedings for action in dispute shall clearly describe - in addition to the requisites defined in the provisions of the APA on applications - the facts and circumstances serving as grounds for the petitioner_s claims under Subsection (1), references to the legislative and contractual provisions that provide the grounds for the petition and a statement on its rights and lawful interests.

(3) Where the petitioner requests the Media Council to conclude an agreement or establish the particulars of its provisions, he shall expressly and clearly define in writing the particulars of contractual provisions he wishes to have concluded or established.

(4)¹ The petition may also include a call for evidence.

(5) If the petition for the opening of proceedings for action in dispute does not or improperly contains the requisites referred to in Subsection (2), the Media Council shall request the petitioner to remedy such deficiencies within the prescribed time limit of up to eight days. If the petitioner fails to remedy the deficiencies, or does so improperly, within the prescribed time limit, the Media Council shall refuse the petition within fifteen days without assessment of the case in its merits.

(6) If the petition for the opening of proceedings for action in dispute does not or improperly contains the requisites referred to in Subsection (3), the Media Council shall request the petitioner to remedy such deficiencies within five days. If the petitioner fails to remedy the deficiencies, or does so improperly, within the prescribed time limit, the Media Council shall not adopt a decision in the context of concluding an agreement or establishing the particulars of its provisions, and as regards the infringement it shall adopt a decision relying on the data at its disposal, or shall terminate the proceedings.

(7) The Media Council shall send the petition - provided that it does not refuse the same without assessing the case in its merits - to the adverse party and shall request such party to present its arguments and any evidence within a period of up to ten days and to concurrently send a copy to the adverse party as well.

(8)² If the Media Council arranged for a hearing in the course of its proceedings, it shall seek to establish an agreement between the parties.

Section 173

(1)³ The hearing referred to in Subsection (8) of Section 172 may be attended by the parties concerned and by other interested parties in person or through their representatives, at which they may make comments and introduce their documentary evidence before the hearing is closed. The hearing shall be held with the public excluded.

(2) The failure of any person who has been duly summoned or notified to attend shall not impede the conduct of the hearing. In justified cases, persons summoned to and notified of, the hearing may seek exemption from attending the hearing; in which case the Media Council may postpone the hearing.

(3) Absence from the hearing without exemption may not be subsequently justified. However, when the Media Council deems it necessary to hear the testimony of a person that failed to attend the hearing, the hearing may be postponed and rescheduled.

(4) Unless otherwise provided for in this Act, the petitioner shall provide reliable evidence to substantiate the facts and describe the legal grounds of his claims set forth in the request.

(5)⁴ The Media Council may request or order the adverse party to supply data and/or make a statement when so requested.

(6) In cases in progress the Media Council may implement, upon request or *ex officio*, interim measures if there is reason to believe that any infringement or injury of one_s interests is imminent in the absence of the said interim measures, as attributable to any serious violation of the provisions of this Act, in particular its basic principles, and if the advantages to be gained supersede the disadvantage arising out of or in connection with the measure.

(7) As an interim measure, the Media Council may order that the activity at issue be discontinued, may prescribe the conditions for the pursuit of the activity and may also impose obligations.

1 Established: by paragraph (4) Section 31 of Act LXVI of 2012. In force: as of 3. 07. 2012.
2 Established: by paragraph (5) Section 31 of Act LXVI of 2012. In force: as of 3. 07. 2012.
3 Established: by paragraph (6) Section 31 of Act LXVI of 2012. In force: as of 3. 07. 2012.
4 Established: by paragraph (7) Section 31 of Act LXVI of 2012. In force: as of 3. 07. 2012.

(8) The interim measure shall remain in effect until the final conclusion of the proceedings. The Media Council shall have powers to modify or cancel the interim measure upon request or of its own motion.

(9)¹ The interim measures ordered by the Media Council may be challenged by the client before the Fővárosi Közigazgatási és Munkaügyi Bíróság (Budapest Court of Public Administration and Labor). The court shall adopt a decision in non-contentious proceedings within fifteen days. The ruling of the Fővárosi Közigazgatási és Munkaügyi Bíróság may not be appealed. The submission of the petition shall not suspend the execution of the ruling.

(10) The Media Council shall not issue a separate ruling for refusing a request for interim measures; the reasons for refusal shall be included in the final decision on the merits of the dispute.

Section 174

(1) In proceedings for action in dispute, if there is an obligation to conclude an agreement under media regulations, the Media Council shall have authority to conclude, modify and establish the terms and conditions of such agreement if the parties failed to agree on the terms and conditions thereof, and if a petition is filed in accordance with Subsection (3) of Section 172.

(2) Where proceedings for action in dispute may be opened under this Act also in relation to the consideration for broadcasting and media services, the Media Council may prohibit further application of the consideration and may set the amount of the lawful price under this Act, and order the media service provider or the broadcaster to apply such legitimate price.

Disclosure of Data

Section 175²

Proceedings Against Media Content Providers Established in Other Member States

Section 176

(1) Where the linear audiovisual media service of a media service provider established in another Member State is directed towards the territory of Hungary, the Media Council shall have powers to apply - by means of a resolution - the legal consequences defined in Paragraphs *c*)-*d*) of Subsection (3) of Section 187 solely in respect of the media services provided within the territory of Hungary for the period of the infringement or up to one hundred and eighty days at most under the following conditions:³

a)⁴ the media service manifestly and seriously violates the provisions of Subsection (1) of Section 17, Subsection (1) or (4) of Section 19 of the Press Act or Section 9 or Subsections (1)-(3) of Section 10 of this Act;

b) the media service violated the provisions mentioned in Paragraph *a*) on at least two occasions within the twelve-month period prior to the resolution to be issued by the Media Council under this Subsection on the restriction of broadcast;

c)⁵ Hungary, at the initiative of the Media Council, notified the media service provider affected and the European Community in writing of the infringements defined in Paragraph *a*) and the measures the Media Council intends to take in case of any repeated infringement; and

¹ Amended: by subparagraph *d*) Section 391 of Act CCI of 2011. In force: as of 1. 01. 2012. Amended: by subparagraph *h*) paragraph (6) Section 69 of Act CCXI of 2012. In force: as of 1. 01. 2013.

² Repealed: by point 5 of Resolution No. 165/2011 (XII.20.) AB of the Constitutionality Court. No longer in force: as of 21. 12. 2011. Amended: by subparagraph *e*) Section 391 of Act CCI of 2011. In force: as of 1. 01. 2012. The amendment of the paragraph was not possible.

³ Established by Section 7 of Act XIX of 2011, effective as 6 April 2011. See Subsection (1) of Section 11 of Act XIX of 2011. Amended: by subparagraph *q*) Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.

⁴ Amended by Subsection (2) of Section 11 of Act XIX of 2011.

⁵ Amended: by subparagraph *c*) Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.

*d)*¹ no agreement is made between Hungary and the Member State in which the media service provider is established - on the basis of the consultations made with the European Commission within fifteen days from the notification referred to in Paragraph *c)* and the infringement described in Paragraph *a)* still exists or is committed repeatedly.

(2) The Media Council shall send the resolution defined under Subsection (1) to the European Commission concurrently with the delivery thereof.

(3) When the European Commission orders the Media Council to withdraw the resolution adopted under Subsection (1) in a decision passed within two months of the notification referred to in Subsection (2), the Media Council shall proceed as provided for in the decision of the European Commission.

Section 177

(1) Where the on-demand audiovisual media service of a media service provider established in another Member State is directed towards the territory of Hungary, or if disseminated or published in the territory of Hungary, the Media Council shall have powers to apply - by means of a resolution - the legal consequences defined in Paragraphs *c)*-*d)* of Subsection (3) of Section 187 with respect to media services provided exclusively in the territory of Hungary, for the period of the infringement or up to one hundred and eighty days at the most under the following conditions:²

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 incitement to hatred based on affiliation, for the protection of minors, public health, public security, national security and consumers and investors;

b) the measures are taken against the provider of an on-demand media service that violates or presents a serious risk with respect to any of the interests defined in Paragraph *a)*; and

c) the measure is proportionate to the interests to be protected.

(2) Prior to the opening of proceedings intended for rendering the resolution referred to in Subsection (1), the Media Council shall request that the Member State in which the media service provider rendering the on-demand media services specified in Subsection (1) is established take appropriate measures. When the Member State fails to take measures within the reasonable timeframe set forth in the Media Council's request, or the measures taken are deemed inadequate, the Media Council shall send the draft version of the resolution under Subsection (1) to the European Commission and the Member State affected. If the European Commission orders the Media Council to withdraw the draft resolution aforementioned, the Media Council shall proceed as provided for in the decision of the European Commission.

(3) In exceptional circumstances, where the Media Council considers that there is an urgent need to act in order to protect the interests of viewers, it may adopt provisional measures in the cases referred to in Subsection (1). The provisional measures shall be executable with immediate effect. The Media Council shall send the provisional measures to the European Commission and the Member State affected, concurrently with the delivery thereof. The Media Council decide whether to uphold or withdraw the provisional measures as provided for in the decision of the European Commission.

Section 178

(1) Where the radio media service or press product of a media content provider established in another Member State is directed towards the territory of Hungary, or if disseminated or published in the territory of Hungary, the Media Council shall have powers to apply - by means of a resolution - the legal consequences defined in Paragraph *c)* of Subsection (3) of Section 187 for the period of the infringement or up to one hundred and eighty days at the most under the following conditions:³

¹ Amended: by subparagraph *c)* Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.

² Established by Section 8 of Act XIX of 2011, effective as 6 April 2011. See Subsection (1) of Section 11 of Act XIX of 2011. Amended: by subparagraph *p)* Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.

³ Amended by Subsection (2) of Section 11 of Act XIX of 2011. Amended: by subparagraph *e)* Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.

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 incitement to hatred based on affiliation, 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 with respect to any of the interests defined in Paragraph a); and

c) the measure is proportionate to the interests to be protected.

(2) Prior to the opening of proceedings intended for rendering the resolution referred to in Subsection (1), the Media Council shall request that the Member State in which the media service provider rendering the radio media services specified in Subsection (1) or the publisher of press product is established take appropriate measures. The Media Council may open the proceedings specified in Subsection (1) if the Member State affected fails to take measures within the reasonable timeframe set forth in the Media Council's request, or the measures taken are deemed inadequate.

(3) In exceptional circumstances, where the Media Council considers that there is an urgent need to act in order to protect the interests of listeners and readers, it may adopt provisional measures in the cases referred to in Subsection (1). The provisional measures shall be executable with immediate effect. The Media Council - concurrently with its announcement - shall send the provisional measures to the Member State in which the media service provider rendering radio media services or publisher of a press product specified in Subsection (1) is established, and shall request that the Member State take appropriate measures. If the Member State takes the measures within the reasonable time set forth in the request, the Media Council shall withdraw the provisional measures, or shall decide to uphold them if the Member State fails to take measures, or the measures taken are deemed inadequate.

Proceedings Against Media Content Providers Established in Other Member States in Cases of Circumvention¹

Section 179

(1)² This Act and Sections 13-20 of the Press Act shall apply to the linear audiovisual media service of any media service provider established in another Member State in accordance with the provisions of Subsections (2)-(5) of this Section, provided that the media service provider established in another Member State directs the linear audiovisual media services in question wholly or mostly towards the territory of Hungary and the media service provider has established itself outside the territory of Hungary in order to circumvent the stricter rules which would be applicable to it under this Act and the Press Act.

(2) For the purposes of determining whether the conditions defined in Subsection (1) apply, the Media Council shall refer to - among others - in which of the Member States the major sources of advertising and/or subscription revenues of the media service provider established in another Member State are to be found for the purposes of its linear audiovisual media service, the main language used in the media service, in which of the Member States the majority of sites covered in the broadcasts are located and which Member State's audience the programs in the media services are directed to.

(3) Where the conditions specified in Subsection (1) apply, the Media Council - upon any infringement of the provisions of this Act and the Press Act - shall request that the Member State in which the provider of the media services specified in Subsection (1) is established take appropriate measures.

(4) The Media Council may apply the legal consequences defined in Paragraphs b)-d) of Subsection (3) of Section 187 against the media service provider mentioned in Subsection (1) if it finds that the Member State having jurisdiction according to Subsection (3) fails to take measures within two months, or the measures taken are deemed inadequate.

¹ Enacted by Section 9 of Act XIX of 2011, effective as of 6 April 2011.

² Amended: by subparagraphs c) and r) Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.

(5) The Media Council shall send the draft resolution specified in Subsection (4) to the European Commission before the delivery thereof. If the European Commission orders the Media Council to withdraw the draft resolution aforementioned, it shall proceed as provided for in the decision of the European Commission.

Section 180

(1)¹ This Act and Sections 13-20 of the Press Act shall apply to the radio media services or press products of any media content provider established in another Member State in accordance with the provisions of Subsections (2)-(3) of this Section, provided that the media service provider established in another Member State directs the radio media services or press products in question wholly or mostly towards the territory of Hungary and the media content provider has established itself outside the territory of Hungary in order to circumvent the stricter rules which would be applicable to it under this Act and the Press Act.


(2) For the purposes of determining whether the conditions defined in Subsection (1) apply, the Media Council shall refer to - among others - in which of the Member States the major sources of advertising and/or subscription revenues of the media content provider established in another Member State are to be found for the purposes of its radio media service or press product, the main language used in the media service or the press product, in which of the Member States the majority of sites covered in the broadcasts are located and which Member State_s audience the programs in the media services or press products are directed to.

(3) Where the conditions specified in Subsection (1) apply, the Media Council - upon any infringement of the provisions of this Act and the Press Act - shall request that the Member State in which the provider of the media services or the publisher of press products specified in Subsection (1) is established take appropriate measures.

(4) The Media Council may apply the legal consequences defined in Paragraphs *b)-c)* of Subsection (3) of Section 187 against the media service provider mentioned in Subsection (1) if it finds that the Member State having jurisdiction according to Subsection (3) fails to take measures within two months, or the measures taken are deemed inadequate.

Proceedings in Case of Infringement of the Obligation of Balanced Information

Section 181

 (1)² In case of any infringement of the obligation of balanced information specified in Subsection (2) of Section 13 of the Press Act and in Subsection (2) of Section 12 of this Act, the party subscribing to the unrepresented view, or any viewer or listener [for the purposes of Subsections (2)-(6) hereinafter referred to as "petitioner"] may request the opening of administrative proceedings. The decision concerning the above-specified request lies with the Media Council concerning the media services rendered by SPI media service providers and public media service providers, or with the Office in the case of other media services. The Authority shall not have the right to open proceedings of its own motion in case of any infringement of the obligation of balanced information.

(2) Prior to requesting the administrative proceedings under Subsection (1), the petitioner shall present its objection to the media service provider affected. The petitioner - within seventy-two hours from the broadcast of the disputed coverage or, in case of re-broadcast of a particular program, 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 disputed broadcast. The petitioner may not exercise his right of opposition if another subscriber to the same viewpoint has already been given an opportunity to present the viewpoint not previously presented, or if the petitioner has been given this opportunity and has failed to take advantage thereof.

¹ Amended: by subparagraphs *c)* and *r)* Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.

² Amended by Subsection (2) of Section 11 of Act XIX of 2011.

(3) The media service provider shall decide whether to accept or reject the objection within forty-eight hours of receipt. The petitioner shall be informed of the decision in writing without delay. The petitioner - within forty-eight hours of being notified of the decision - shall have the right to request the Authority to open administrative proceedings, or, when the decision is not communicated, within ten days of the broadcast of the challenged or objected communication, together with the precise description of the contested program and the name of the media service provider affected. A petition for the opening of proceedings by the Authority may also be submitted 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 petition shall be submitted to the Authority within forty-eight hours of the expiry of the deadline specified for compliance with the objection. The administrative time limit for the Authority's proceedings shall be fifteen days, that may be extended once by no more than eight days in justified cases.

(4) At the request of the Authority, the media service provider shall make available to the Authority the recording of the contested program without delay.

(5) If the Authority finds that the media service provider violated the obligation of balanced information, the media service provider shall broadcast or publish the Authority's decision or the notice defined in the decision without any comment thereon - as provided for in the decision of the Authority - by way of the means and at the time specified by the Authority or shall provide an opportunity for the petitioner to make his viewpoint known. The consequences defined in Sections 186-187 may not be applied against the infringer in addition to the above.

(6)¹ The procedure defined under Subsections (1)-(5) shall be exempt from duties, and the petitioner may not be obliged to pay an administrative service fee.

(7)² The provisions of Section 165 shall also apply to judicial review of the Office's resolution adopted in regulatory proceedings under this Section, with the proviso that judicial review of the Media Council's resolution of the second instance may be requested by the client, or any other party to the proceeding concerning provisions expressly pertaining to him, from the Fővárosi Közigazgatási és Munkaügyi Bíróság (*Budapest Court of Public Administration and Labor*) within fifteen days of the time of delivery of the resolution alleging infringement. The Media Council shall forward the claim - together with the documents and representations of the case - to the Fővárosi Közigazgatási és Munkaügyi Bíróság within fifteen days of receipt thereof. The court shall hear the petition for a judicial review and adopt a decision within sixty days from the date the Media Council has dispatched the petition to the court, and shall ensure that its decision is given in writing before the date of delivery. A motion for retrial or an appeal may not be submitted against the decision of the court. A petition for review may be lodged within fifteen days from the date of delivery of the resolution, with the proviso that the petition for review shall be delivered to the Fővárosi Közigazgatási és Munkaügyi Bíróság within the deadline prescribed for submission of the petition for review. That deadline shall apply with prejudice; no application for continuation shall be accepted upon missing the deadline. The Kúria (*Curia*) shall adopt a decision concerning the petition within forty-five days, and shall ensure that its decision is given in writing within that time. The Fővárosi Közigazgatási és Munkaügyi Bíróság, and the Kúria shall deliver its decision in priority proceedings.

¹ Established: by paragraph (5) Section 69 of Act CCXI of 2012. In force: as of 1. 01. 2013.
² Enacted: by paragraph (5) Section 69 of Act CCXI of 2012. In force: as of 1. 01. 2013.

(8)¹ Judicial review of the Media Council's resolution adopted in regulatory proceedings of the first instance under this Section may be requested by the client, or any other party to the proceeding concerning provisions expressly pertaining to him, from the Fővárosi Közigazgatási és Munkaügyi Bíróság within fifteen days of the time of delivery of the resolution alleging infringement. The Media Council shall forward the claim - together with the documents and representations of the case - to the Fővárosi Közigazgatási és Munkaügyi Bíróság within fifteen days of receipt thereof. The court shall hear the petition for a judicial review and adopt a decision within sixty days from the date the Media Council has dispatched the petition to the court, and shall ensure that its decision is given in writing before the date of delivery. A motion for retrial or an appeal may not be submitted against the decision of the court. A petition for review may be lodged within fifteen days from the date of delivery of the resolution, with the proviso that the petition for review shall be delivered to the Fővárosi Közigazgatási és Munkaügyi Bíróság within the deadline prescribed for submission of the petition for review. That deadline shall apply with prejudice; no application for continuation shall be accepted upon missing the deadline. The Kúria (*Curia*) shall adopt a decision concerning the petition within forty-five days, and shall ensure that its decision is given in writing within that time. The Fővárosi Közigazgatási és Munkaügyi Bíróság, and the Kúria shall deliver its decision in priority proceedings.

Powers and Responsibilities of the Authority

Section 182

Acting within its vested competence, the Media Council - in accordance with Section 132 - shall:

- a) exercise general administrative supervision relating to the public contracts it has concluded;
- b) exercise administrative supervision regarding the following statutory provisions defined in this Act:
 - ba) provisions on the protection of children and minors,
 - bb) provisions on the broadcast of events considered to be of major importance,
 - bc)²
 - bd) provisions on media services concerning extraordinary situations,
 - be) requirements on program quotas,
 - bf) requirements defined in Sections 23-25 relating to commercial communications,
 - bg) provisions on product placement,
 - bh) provisions on political advertisements, public service announcements and community facility advertisements [except for the provisions of Subsection (7) of Section 32],
 - bi) requirements on advertisements and teleshopping set out under Section 33,
 - bj) provisions relating to the must carry obligations of broadcasters, bk) requirements concerning the offering of media services, bl) provisions on the diversity of broadcasting, bm) rules concerning the performance of tasks in public media services;
- c)³ monitor compliance with the requirements set out in Section 14 and Sections 16-20 of the Press Act;
- d) exercise the regulatory powers in relation to infringements committed by media content providers established in other Member States;
- e) adopt an official decision on the rating of a program, at the request of a media service provider;
- f) conclude a public contract with the media service provider on exemption from the requirements on program quotas;
- g) determine the amount of the basic media service license fee;
- h) perform the tasks relating to tender procedures for rights to provide radio media services and for rights to provide media services in connection with public duties;
- i) proceed in official matters related to the renewal of rights to provide analogue and linear media services;
- j) proceed in official matters related to media services in connection with public contracts;

¹ Enacted: by paragraph (5) Section 69 of Act CCXI of 2012. In force: as of 1. 01. 2013.

² Repealed: by Section 9 of Act XXXIII of 2013. No longer in force: as of 5. 04. 2013.

³ Established: by Section 25 of Act LXVI of 2012. In force: as of 19. 06. 2012.

- k) perform the tasks related to the networking of media service providers and extension of their area of transmission;
- l) exercise the powers on the classification of a media service as a community media service, and shall oversee their operations;
- m) identify the media service providers with significant powers of influence and defines the obligations imposed upon SPI media service providers;
- n) proceed in the context of fulfillment of obligations imposed upon SPI media service providers, excluding the obligations defined in Section 39;
- o) perform the official tasks related to the control of market concentrations;
- p) conduct a sectoral inquiry in the media market;
- q) conduct market surveillance proceedings;
- r) proceed in disputes defined in this Act;
- s) perform the tasks related to public contracts on temporary media services;
- t) functions as at authority of competence in cases defined in this Act and the Competition Act;
- u)¹ proceed in relation to complaints on imbalanced information that may arise in media services provided by SPI media service providers and by public media service providers [Section 13 of the Press Act and Section 12 of this Act];
- v)²
- x) define by means of an official decision public service and community media services falling under must carry obligation [Subsection (3) of Section 75];
- y) perform the regulatory functions related to the actions and decisions of self-regulatory bodies;
- z) exercise other regulatory powers conferred by law.

Section 183

(1) When acting within a capacity other than a public authority, the Media Council - in accordance with Section 132:

- a) shall draw up recommendations for the classification of media content for the protection of minors;
- b) shall draw up 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 Parliament on the enforcement of the constitutional principle of the freedom of the press and the reasons and circumstances of exemptions granted to media service providers from program quotas;
- 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 bills on frequency management and communications;
- h) shall present its opinion and make recommendations in media policy issues;
- i) shall formulate the concept of frequency management relating to media services;
- j) shall prepare an annual report for Parliament on the activities of the Media Council and the Office;
- k) shall manage the Fund, accept the subsidy policy, annual plan and accounts of the Fund, define and publish the detailed rules on the management of the Fund and approve the standard tender conditions worked out by the Fund;
- l) shall prepare a report for the European Commission on certain requirements concerning program structure;
- m) shall draw up the rules concerning the utilization of assets entrusted to the Közzolgálati Közalapítvány (*Public Service Foundation*) and asset management;
- n) shall cooperate with the media authorities of other Member States;
- o) shall supervise the operation of the Médiatudományi Intézet (*Media Institute*);
- p) shall perform non-regulatory tasks related to the actions of self-regulatory bodies;

¹ Amended by Subsection (2) of Section 11 of Act XIX of 2011.

² Repealed by Paragraph h) of Subsection (2) of Section 50 of Act XXXIX of 2014, effective as of 30 September 2014.

- q*)¹ shall compile a list of designated events of considerable importance to society;
- r*)² shall perform other non-regulatory tasks defined by the relevant legislation.

(2) The implementation of 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 shall be conferred upon the Media Council with a view to any intra-Community infringements of national laws on the transposition of 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 connection with the implementation referred to above, as regards mutual assistance the Media Council shall proceed in accordance with Commission Decision 2007/76/EC.

Section 184

(1) The Office, within its regulatory powers, shall:

- a*) maintain the administrative registers defined in this Act;
 - b*) determine the amount of the media service license fee payable by media service providers having acquired the right to provide media services through registration;
 - c*) monitor compliance with the following provisions of this Act:
 - ca*) the provisions of Subsection (7) of Section 32 on political advertisements, public service announcements and community facility advertisement,
 - cb*) regulations on advertisements published in public and community media service and public service announcements (Section 36),
 - cc*) regulations on programs made accessible to people with a hearing disability (Section 39),
 - cd*)³ regulations on changes in the ownership structure and other data of media service providers, publishers of press products and providers of complementary media services, and on the reporting and disclosure of such data,
 - ce*) regulations on the ownership structure of linear media service providers and ownership concentration of companies (Section 43),
 - cf*) provisions on media content with violence or that is suitable to raise disturbance, and regulations on the protection of religious convictions (Section 14),
 - cg*) provisions on advertisement and teleshopping (Sections 34-35),
 - ch*) regulations on the sponsorship of media services and programs (Sections 26-29),
 - ci*)⁴ data disclosure obligations specified in Subsection (12) of Section 175;
 - d*) perform the tasks related to the discontinuation and termination of rights to provide media services in the event of failure to commence the service;
 - e*)⁵ act in the settlement of complaints regarding the obligation of balanced information, except as defined in Paragraph *u*) of Section 182 (Section 13 of the Press Act and Section 12 of this Act);
 - f*) monitor compliance with the obligations on the forwarding of public media services (Section 74);
 - g*) monitor compliance with the provisions on general contractual framework within the context of offering media services (Section 79);
 - h*) exercise other powers conferred by law.
- (2) The Office, when acting within a capacity other than a public authority, shall:
- a*) perform the preparatory tasks in cases falling within the scope of responsibilities and competence of the Media Council;
 - b*) perform the preparatory tasks in connection with tender procedures for rights to provide media services, and hold public hearings;
 - c*) perform market analysis, assessments and other inquiries by the program monitoring and analysis service;
 - d*) perform other non-regulatory tasks defined by the relevant legislation.

¹ Established by Subsection (1) of Section 43 of Act XXXIX of 2014, effective as of 30 September 2014.

² Enacted by Subsection (2) of Section 43 of Act XXXIX of 2014, effective as of 30 September 2014.

³ Established by Subsection (55) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

⁴ Enacted by Subsection (56) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

⁵ Amended by Subsection (2) of Section 11 of Act XIX of 2011.

Chapter V

LEGAL CONSEQUENCES APPLICABLE IN CASES OF INFRINGEMENT

Section 185

(1) The Media Council or the Office shall have powers to impose sanctions for any infringement of media regulations in accordance with the provisions of Sections 186-189.

(2) In taking the necessary legal measures, 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 consequence 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 sanction.

Section 186

(1) Where the infringement is considered insignificant and no re-occurrence is established, the Media Council and/or the Office shall establish the infringement and shall issue a warning, and, furthermore, may order the infringer to discontinue the unlawful conduct within a time limit of up to thirty days, to refrain from any further infringement in the future and act in a law-abiding manner, and may also set the conditions thereof.

(2) As regards the request made under Subsection (1), the discretionary criteria defined in Subsection (2) of Section 187 shall not apply.

(3) Where - taking into consideration all circumstances of the case - the request may not be applicable or would prove inefficient to ensure 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 enforce compliance with the provisions of this Act and/or may apply additional sanctions.

Section 187

(1) In case of repeat offenders, the Media Council and the Office shall have powers to impose a fine upon the executive officer of the infringing entity in an amount up to two million forints, consistent with the gravity and nature of the infringement and the circumstances of the case.

(2)¹ The Media Council and the Office shall impose the legal sanctions - 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 caused by the infringement, the number of persons aggrieved or jeopardized, 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 - in accordance with Subsection (7) - shall have the right to impose the following legal sanctions:

a) exclude the infringer from participating in the tender procedures published by the Fund for a fixed period of time;

b) impose a fine on the infringer subject to the following limits:

ba) in case of infringement by an SPI media service providers or a media service provider to whom the regulations on the limitation of media market concentration apply, the fine shall be of an amount up to two hundred million forints,

bb) in case of infringement by a media service provider not covered by Subparagraph *ba)*, the fine shall be of an amount up to fifty million forints,

bc) in case of a newspaper of nation-wide distribution, the fine shall be of an amount up to twenty-five million forints,

¹ Established by Subsection (1) of Section 125 of Act CCLII of 2013, effective as of 15 March 2014.

bd) in case of a weekly periodical of nation-wide distribution, the fine shall be of an amount up to ten million forints,

be) in case of other newspaper or weekly newspaper or periodical, the fine shall be of an amount up to five million forints,

bf) in case of an online press product, the fine shall be of an amount up to twenty-five million forints,

bg) in case of a broadcaster, the fine shall be an amount up to five million forints,

bh) in case of an intermediary service provider, the fine shall be of an amount up to three million forints;

c) the infringer may be ordered to publish a notice or the resolution on the home page of its website, in a press product or in a designated program in the manner and for the period of time specified in the resolution;

d) suspend the exercise of the right to provide media services for a specific period of time, where:

da) the period of suspension may last from fifteen minutes up to twenty-four hours,

db) the period of suspension in case of grave infringement may last from one hour up to forty-eight hours,

dc) the period of suspension in case of repeated and grave infringement may last from three hours up to one week;

e) remove the media service from the register specified in Subsection (4) of Section 41, in which the infringement was committed, and may terminate the public contract concluded for the right to provide media services with immediate effect on repeated grave infringement by the infringer. The media service stricken from the register may not be made accessible for the public once it was deleted.

(4)¹ For the purposes of Subsections (1)-(3), repeated infringement shall mean when the infringer committed the unlawful conduct as established in the definitive official resolution on the same legal basis and in breach of the same provisions of legislation, in the same subject, repeatedly within three hundred and sixty-five days, not including insignificant offenses. In the case of infringement of Sections 20-21, Subsection (2) of Section 22, Subsection (3) of Section 22, Subsection (5) of Section 22 and Subsection (6) of Section 22, repeat offense shall mean when the infringer committed the unlawful conduct as established in the definitive official resolution on the same legal basis and in breach of the same provisions of legislation repeatedly within three years.

(5) The legal consequences defined in Subsection (3) may be imposed collectively as well.

(6) Providers of linear media services may be subject to the legal consequences defined under Paragraphs *a*)-*e*) of Subsection (3), providers of on-demand and complementary media services to the legal consequences defined under Paragraphs *a*)-*d*) of Subsection (3), and publishers of press products to the legal consequences defined under Paragraphs *b*)-*c*) of Subsection (3).

(7) The Media Council is vested with powers to apply legal consequence defined under Paragraph *e*) of Subsection (3).

(8) The Media Council shall have the right to enforce the penalty defined in the contract and other legal consequences on media service providers engaged under broadcasting agreement only by way of an administrative procedure.

Responsibility of Broadcasters and Intermediary Service Providers for the Transmission of Media Services and Press Products

Section 188²

(1) The broadcaster may be ordered to suspend or terminate the transmission of media services in accordance with Section 189 by way of an official resolution issued by the Media Council under regulatory competence.

¹ Established by Section 44 of Act XXXIX of 2014, effective as of 30 September 2014.

² Established by Subsection (58) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

(2) The intermediary service provider may be ordered to suspend or terminate the conveyance of media services and press products in accordance with Section 189 by way of an official resolution issued by the Media Council under regulatory competence.

(3) Broadcasters shall not be responsible for the content of programs of the media service providers established in a state that is a party to the Agreement on the European Economic Area and to the European Convention on Transfrontier Television signed in Strasbourg on 5 May 1989 and promulgated by Act XLIX of 1998, and the Protocol amending it. Broadcasters, however, may be ordered to suspend the broadcasting of the media service under Section 189, taking into account the provisions of Sections 176-180, by way of an official resolution issued by the Media Council under regulatory competence.

Section 189¹

(1) Where the Media Council applies a legal sanction defined in Paragraph *e*) of Subsection (3) of Section 187 against a media service provider, the broadcaster shall suspend the dissemination of the media service to which the official resolution on the relevant legal sanction pertains, based on the official resolution issued by the Media Council in regulatory proceedings conducted *ex officio* following the resolution becoming final.

(2) Where the Media Council or the Office applies - in case of repeated infringement - either of the legal sanctions defined in Paragraphs *b)-d)* of Subsection (3) of Section 187 against a media service provider, and the media service provider fails to fulfill the terms of the final and executable resolution on the relevant legal sanction when so requested by the Media Council or the Office, the broadcaster may be ordered to suspend the dissemination of the media service to which the official resolution on the relevant legal sanction pertains, based on the official resolution issued by the Media Council in regulatory proceedings conducted *ex officio*.

(3) Where the Media Council or the Office applies - in case of linear, on-demand or complementary media services - either of the legal sanctions defined in Paragraphs *b)-d)* of Subsection (3) of Section 187 against a media service provider, and the media service provider fails to fulfill the terms of the final and executable resolution on the relevant legal sanction when so requested by the Media Council or the Office, the intermediary service provider may be ordered to suspend the intermediation of the linear, on-demand or complementary media services to which the official resolution on the relevant legal sanction pertains, based on the official resolution issued by the Media Council in regulatory proceedings conducted *ex officio*.

(4) Where the Media Council or the Office applies - in case of online press products - either of the legal sanctions defined in Paragraphs *b)-c)* of Subsection (3) of Section 187 against a publisher of press products, and the publisher fails to fulfill the terms of the final and executable resolution on the relevant legal sanction when so requested by the Media Council or the Office, the intermediary service provider may be ordered to suspend the intermediation of the online press product to which the official resolution on the relevant legal sanction pertains, based on the official resolution issued by the Media Council in regulatory proceedings conducted *ex officio*.

(5) The resolutions referred to in Subsections (1)-(4) shall specify the procedure and the conditions of termination and suspension, a reasonable deadline for compliance, the duration of termination or suspension, as well as the bearing of the costs the broadcaster or the intermediary service provider has incurred in connection with the termination or suspension of the dissemination or transmission of the media services, or with the intermediation of the press product, including any compensation.

(6) The time period of the suspension of dissemination or broadcasting specified in Subsections (2)-(4) must be proportionate to the weight or gravity of the underlying legal sanction, and it may not exceed the time limit specified in the final and executable resolution for the media service provider or publisher of online press products, including the time period required for the termination of suspension. The time period required for the termination of suspension by the broadcaster or intermediary service provider may not exceed fifteen days, covering also the notification of the broadcaster or intermediary service provider by the Media Council.

¹ Established by Subsection (58) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

(7) The costs incurred by the broadcaster or intermediary service provider in connection with the termination or suspension of broadcasting and intermediation shall be covered by the media service provider or publisher of press products upon whom the legal sanction had been imposed.

(8)¹ No appeal shall lie against the resolution of the Media Council defined under Subsections (1)-(4). The client may request to have the resolution reviewed - alleging infringement of the law - at a court of jurisdiction for administrative actions within fifteen days of delivery of the official resolution. The court shall adopt a decision in non-contentious proceeding, upon hearing the parties if necessary, within fifteen days. Lodging a petition for non-contentious proceedings shall have no suspensory effect on the enforcement of the resolution. Suspension of the execution of the official resolution contested may not be requested from the court, and the court has no jurisdiction to order such suspension. The resolution shall be executable with immediate effect, irrespective of the submission of a petition for non-contentious proceedings. The ruling of the Fővárosi Közigazgatási és Munkaügyi Bíróság may not be appealed.

(9) If the broadcaster and/or the intermediary service provider fails to fulfill the provisions of the resolutions referred to in Subsections (1)-(4), the Media Council shall open *ex officio* administrative proceedings against the broadcaster or the intermediary service provider and shall have powers to apply the legal sanctions specified in Subparagraph *bg*) or *bh*) of Subsection (3) of Section 187.

(10) The provisions of Section 188 and this Section shall not apply in respect of the suspension of enforcement requested in the petition for judicial review of the official resolution on the legal sanctions specified in this Section, until the court's decision in the first instance is delivered, moreover, they shall not apply until the final conclusion of the related administrative action if the court has suspended the execution of the official resolution on the said legal sanctions.

Chapter VI

CO-REGULATION IN MEDIA ADMINISTRATION

General Provisions

Section 190

(1) With a view to effective implementation of the objectives and principles set out in this Act and the Press Act, facilitating voluntary compliance with the law and for introducing a more flexible system for law enforcement on media administration, the Media Council shall cooperate with the self-regulatory bodies of media service providers, providers of complementary media services, publishers of press products, broadcasters and intermediary service providers, including their alternative forums for dispute settlement (for the purposes of this Chapter hereinafter referred to as "self-regulatory bodies").

(2) In the context of the cooperation referred to in Subsection (1), the Media Council shall have authority to conclude an administrative agreement with the self-regulatory body of good standing, that is to say established and operating in accordance with the relevant legislation, on cooperation for the shared handling of cases specified below falling within the administrative competence of the Media Council together with such self-regulatory bodies as defined in this Chapter and joint performance of tasks - related to media administration and media policy - not falling within the scope of administrative competence by law but nevertheless compliant with the provisions of this Act.

Section 191

¹ Amended: by subparagraph *f*) Section 391 of Act CCI of 2011. In force: as of 1. 01. 2012. Amended: by subparagraph *i*) paragraph (6) Section 69 of Act CCXI of 2012. In force: as of 1. 01. 2013.

(1) Under the administrative agreement described in Section 195 (hereinafter referred to as "administrative agreement"), the Media Council shall have powers to authorize the self-regulatory body to perform self-management tasks beyond the scope of administrative powers in relation to its registered members and media service providers, broadcasters, intermediary service providers and publishers of press products agreed to be bound by the terms of the Code of Conduct defined in Section 194 (hereinafter referred to collectively as "business entities covered by the Code") in official cases expressly specified in Subsection (2) of Section 192 within the powers conferred under the agreement, prior to specific exercise of powers of the competent authority.

(2) The authorization granted under Subsection (1) shall not confer administrative and executive powers upon the self-regulatory body, and the self-regulatory body shall not be construed an administrative authority nor shall be covered by the administration system under this authorization.

(3) The authorization granted under the administrative agreement shall not prejudice the powers of the Media Council under this Act, the Media Council shall have powers to proceed in administrative cases irrespective of this authorization subject to the exceptions set out in this Chapter.

Section 192

(1) The Media Council shall enter into an administrative agreement with a self-regulatory body that is able to meet the conditions set out in Subsection (2) of Section 190 and whose registered scope of activities cover or directly affect the administrative cases to which the authorization pertains and that maintains a precise and verifiable registry of the business entities covered by the Code.

(2) In the administrative agreement, the Media Council shall have powers to grant authorizations to self-regulatory bodies to manage the following types of administrative cases beyond the scope of administrative powers in relation to the business entities covered by the Code:

*a)*¹ exercise supervision as to compliance with Sections 14 and 16-20 of the Press Act, or any of those provisions in relation to press products;

*b)*² exercise supervision as to compliance with Sections 14 and 16-20 of the Press Act, or any of those provisions in relation to online press products;

*c)*³ exercise supervision as to compliance with Sections 14 and 16-20 of the Press Act, or any of those provisions in relation to on-demand media services;

d) exercise supervision as to compliance with Chapter I of Part Two of this Act, or any of those provisions in relation to on-demand media services.

(3) The authorizations granted by the Media Council to the self-regulatory body for the administrative case type referred to in Subsection (2) shall cover:

a) the administration of cases related to business entities covered by the Code (including the procedures relating to applications and complaints concerning the activities of the members);

b) settlement of disagreements and disputes between business entities covered by the Code within the scope of the authorization;

c) supervision of the operation and conduct of business entities covered by the Code in relation to the authorization.

Section 193

(1) Under the administrative agreement, the Media Council and the self-regulatory body may agree to cooperate in the performance of tasks, and implementing principles of activity and service development, programs of public concern closely linked to media administration and media policy not regulated in legislation, and any other objective related to media.

(2) The detailed rules on the tasks of self-regulatory bodies - under authorization conferred by the administrative agreement - defined in this Chapter are laid down in the administrative agreement.

¹ Amended: by subparagraph e) Section 8 of Act XXXIII of 2013. In force: as of 5. 04. 2013.

² Amended: by subparagraph e) Section 8 of Act XXXIII of 2013. In force: as of 5. 04. 2013.

³ Established by Subsection (59) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011. Amended: by subparagraph e) Section 8 of Act XXXIII of 2013. In force: as of 5. 04. 2013.

(3) The Office shall have powers to provide financial aid for the self-regulatory body to perform its tasks specified in this Chapter, and the self-regulatory body shall give account of the appropriation thereof to the Office each year by 31 May in the breakdown required.

Section 194

(1) The administrative agreement concluded by the self-regulatory body and the Media Council shall include a professional code of conduct as a substantive part thereof defining the autonomous performance of tasks under self-management (hereinafter referred to as "Code of Conduct").

(2) The Code of Conduct shall be prepared by the self-regulatory body in the preparatory process of the administrative agreement and shall be sent to the Media Council for consultation. The Media Council shall examine the Code of Conduct as to whether it complies with the relevant legislation. The administrative agreement shall be deemed concluded with effect on condition that the Media Council and the self-regulatory body come to an agreement concerning the Code of Conduct.

(3) The Code of Conduct shall specify in detail - within the context of the authorizations granted in accordance with Section 192 - the provisions on proceedings and guarantees related to the self-management 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 authorization - and the types, interrelation and the legal effect of decisions to be rendered by the self-regulatory body.

(4) In addition to the provisions of Subsection (2), the substantive part of the Code of Conduct shall describe the rules, conditions and requirements concerning the activities, services and conduct within the context of the authorization.

Section 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 administrative agreement.

(2) The Media Council shall have discretionary powers in relation to the conclusion of the administrative agreement.

(3) The administrative agreement may be concluded in writing only.

(4) The Media Council - on conclusion of the administrative agreement - shall have the right to access the registry maintained on the business entities covered by the Code and may request information from the self-regulatory body in connection with data from the registry so as to be able to perform its functions defined in this Chapter concerning the self-regulatory body.

(5) In respect of administrative agreements, the general provisions of the Civil Code of the Republic of Hungary shall apply, subject to the exceptions set out in this Act.

Section 196

(1) The Media Council shall have the right to terminate the administrative agreement with immediate effect, in the event that the self-regulatory body:

- a) seriously and/or repeatedly breaches the provisions of the administrative agreement, or
- b) performs its tasks defined in the administrative agreement not in compliance with the terms and conditions of the agreement or the terms of the Code of Conduct.

(2) The administrative agreement 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

Section 197

(1) The self-regulatory body shall proceed in administrative cases subject to the authorizations granted thereto in relation to its members as an entity performing the tasks within its own competence, rather in an official capacity, as provided for in this Chapter and the administrative agreement. In so doing, its involvement shall have priority over and complement the activities of the Media Council acting in its administrative competence (hereinafter referred to as "self-regulatory procedure").

(2) The Media Council shall have powers to proceed in relation to the members of the self-regulatory body in the administrative matters defined in the administrative agreement when it considers that the self-regulatory body does not comply with the relevant legislation or the provisions of the administrative agreement concluded by the parties.

(3) The self-regulatory procedure on the part of the self-regulatory body shall have priority over the administrative procedure of the Media Council.

(4) The self-regulatory body shall be responsible for drawing up, accepting and enforcing internal regulations regarding its members so as to ensure that the tasks defined in this Chapter are performed properly and effectively, and that the rules contained in this Chapter are duly enforced. If due to failure to fulfill the provisions set forth above, the self-regulatory body is unable to properly carry out its tasks defined in this Chapter and the administrative agreement concluded with the Media Council, the Media Council shall be entitled to terminate the administrative agreement.

Section 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 open proceedings in cases falling within its competence of its own motion.

(2) The time limit for the self-regulatory procedure by a self-regulatory body shall be thirty days, which may be extended by fifteen days with due consideration to the complexity of the case and the difficulties that may arise in ascertaining the relevant facts of the case. A shorter period may also be provided for under the administrative agreement.

(3) When the Media Council receives a petition relating to a subject falling within self-regulatory procedure, it shall forward the petition to the self-regulatory body, taking into account 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 or the business entity shown in the petition is not subject to the Code of Conduct, the self-regulatory body shall return the petition to the Media Council without delay. If the self-regulatory body opens its proceedings on the basis of the petition forwarded by the Media Council, it shall refund to the petitioner any dues and fees paid thereto concurrently with the petition requesting the proceedings of the Media Council.

(4) In the case defined under Subsection (2), the petition requesting the proceedings of the Media Council shall not be construed as an application giving rise to the obligation to open proceedings as defined in the APA, except if the petition is returned by the self-regulatory body to the Media Council. In such cases, the administrative proceedings of the Media Council shall begin on the day when the petition was returned by the self-regulatory body to the Media Council.

(5) If the self-regulatory body receives a petition 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 requesting party about the relevant powers of the Media Council, the opportunities to initiate proceeding and the rules thereof.

Section 199

(1) The self-regulatory body shall assess the petition in light of this Chapter, the administrative agreement concluded with the Media Council and in particular the Code of Conduct constituting an integral part thereof, and shall pass its decision accordingly. The decision of the self-regulatory body shall be binding upon the business entities covered by the code, and may impose obligations. If the decision imposes any obligation, the self-regulatory body shall set an appropriate time limit 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 that time limit. The Media Council shall review the decisions sent by the self-regulatory body, containing obligations. Where revision of the self-regulatory body's decision is requested by the petitioner or the party upon whom the decision was imposed, the Media Council shall review such decision within thirty days.

(2) If the Media Council finds that the decision of the self-regulatory body does not comply with the provisions of the administrative agreement concluded with the self-regulatory body and in particular the provisions of the Code of Conduct, or if in its opinion the decision violates the provisions of the relevant legislation, or if it finds that the self-regulatory body is unable to enforce its decision, it shall open an administrative procedure in the case covered by the petition. The Media Council shall not be bound by the procedure and decision of the self-regulatory body.

Section 200

(1) The responsibility for carrying out the tasks and activities falling outside the powers of the Media Council which, however, are covered by administrative agreement concluded with the self-regulatory body, properly and effectively lies with the self-regulatory body itself, and it shall formulate its own procedures independently. The Media Council shall cooperate with the self-regulatory body on a regular basis, providing support and incentive for performing its tasks.

(2) The parties shall notify one another in the context of performing non-administrative tasks defined in Subsection (1) and other observations in conducting their procedures on a continuous basis. The self-regulatory body shall perform these functions in accordance with the administrative agreement 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 gained in performing these tasks in exercising its administrative powers, performing market analysis, assessment and in particular drafting legislation.

Supervision Over the Activities of the Self-regulatory Body Provided for in this Chapter

Section 201

(1) The Media Council shall supervise the activities of the self-regulatory body under the administrative agreement. In so doing, the Media Council shall have powers to monitor compliance with the provisions of the administrative agreement concluded with the Media Council on the part of the self-regulatory body on a regular basis, and their implementation in accordance with the agreement. In the context of supervision, the Media Council shall have powers to oversee all activities performed by the self-regulatory body under the administrative agreement, and to this end, the self-regulatory body may be ordered to disclose data as required.

(2) To the extent deemed necessary, the Media Council shall subject the procedures and decisions of the self-regulatory body specified in Sections 197-200 to comprehensive audit. Accordingly, the Media Council shall assess the decisions of the self-regulatory body - in terms of compliance with the provisions of the administrative agreement and the Code of Conduct constituting an integral part thereof - on a case-by-case basis and on the whole.

(3) If - in the context of the supervision - the Media Council finds that the self-regulatory body failed to proceed, or did so improperly in cases to which the authorizations granted under the administrative agreement pertain, such as in particular:

a) the proceedings specified in Sections 197-200 are conducted not in compliance with the relevant provisions of the Code of Conduct,

b) the applications are processed not in compliance with the relevant provisions of the Code of Conduct,

c) decisions are rendered not in compliance with the relevant provisions of the Code of Conduct, or

d) it fails to monitor compliance with or enforcement of its decisions and/or fails to take measures to ensure that the provisions of its decisions are fulfilled,
the Media Council shall request the self-regulatory body to proceed in accordance with the provisions of the administrative agreement, allowing an appropriate deadline.

(4) If the self-regulatory body fails to fulfill the request under Subsection (3) within the specified deadline, the Media Council shall have powers to terminate the administrative agreement with immediate effect or with a period of notice defined in the contract.

(5) If - on the basis of the audit - the Media Council finds that the proceedings and decision of the self-regulatory body violate the relevant legislation or the provisions of the administrative agreement or the Code of Conduct that constitutes an integral part thereof, the Media Council - concurrently with establishing the fact of infringement - shall open administrative proceedings in the subject covered by the decision.

Section 202

The self-regulatory body shall prepare a report to the Media Council on its activities and tasks performed under the administrative agreement on a regular basis or at least annually, while on its proceedings, content, subjects, types, content and implementation of its decisions in the context of its self-regulatory procedure at least every six months in writing. The Media Council shall assess the report under its decision.

Section 202/A¹

The provisions set out in this Chapter pertaining to co-regulation shall be without prejudice to and shall not inhibit the right of media content providers to set up self-regulatory regimes in the fields of their activities through self-regulatory initiatives to the extent permitted within the framework of this Act. The Media Council and the Authority shall - in accordance with Section 8 - support and respect such initiatives.

PART FIVE

DEFINITIONS

Section 203

1.² Founder shall mean a natural or legal person, or unincorporated organization who determines the objective, purpose and direction of the press product before it is first published, exercises control and supervision, and provides for the regular publication thereof, who therefore has the right of disposition over the press product (notification of registration of the press product, notification or approval of withdrawal of registration of the press product, designation of publisher), moreover, any person to whom founder's rights are transferred shall also be considered a founder.

1a.³ Audiovisual media service shall mean media services featuring programs containing moving images, still images with or without sound.

2. Transmission system shall mean the technical means, electronic broadcasting and other equipment for the analogue or digital distribution of television or radio broadcast signals, which are connected to the transmission medium used for broadcasting, in particular to the air, radio frequencies, the vacuum, coaxial cables, twisted pair wires, or fiber optic cables.

3. Qualifying holding shall mean:

¹ Enacted: by paragraph (6) Section 26 of Act LXVI of 2012. In force: as of 3. 07. 2012.

² Established by Subsection (1) of Section 45 of Act XXXIX of 2014, effective as of 30 September 2014.

³ Enacted by Subsection (2) of Section 45 of Act XXXIX of 2014, effective as of 30 September 2014.

a) a direct or indirect holding in a company which represents twenty-five per cent or more of the capital or of the voting rights on the whole; any direct and indirect ownership interest of close relatives shall be applied together;

b) any situation which makes it possible to exercise a significant influence over the management of the company in which that holding subsists on the basis of a contract, the charter document (statutes) or preference shares, through the appointment (removal) of members of the decision-making or supervisory bodies, or in any other way.

4.¹ Surreptitious commercial communication shall mean any published commercial communication that misleads the public as to its nature. A commercial communication may be considered to be surreptitious advertising if it is not done in return for payment or similar consideration.

5. Documentary shall mean nonfictional motion pictures intended to document some aspect of reality. The concept of documentary shall cover films on nature, films of scientific or educational nature, historical documentaries, autobiographical films and report films.

6. Electronic communications services shall mean a service normally provided to others for remuneration which consists wholly or mainly in the conveyance and, where applicable, switching or routing of signals on electronic communications networks, but exclude services providing or exercising editorial control over content transmitted using electronic communications networks and electronic communications services; furthermore, it does not include information society services, as defined in specific other legislation, which do not consist wholly or mainly in the conveyance of signals on electronic communications networks.

7.² Provider of electronic communications services shall mean the operator of an electronic communications network, and any natural or legal person engaged in providing electronic communications services.

8.³ Subscriber shall mean any natural or legal person or other organization who or which is party to a contract with the provider of media services intended for the public or publicly available electronic communications services, or the publisher of press products for the supply of such services.

9.⁴ European works shall mean the following:

a) works originating in Hungary;

b) works originating in any Member State of the European Union;

c) works originating in any European third state that is a party to the Agreement on the European Economic Area and to the European Convention on Transfrontier Television signed in Strasbourg on 5 May 1989 and promulgated by Act XLIX of 1998;

d) works that are produced within the framework of co-production agreements concluded between Member States of the European Union and non-member States, provided that the co-producers from the Member State supply a majority share of the total cost of production and that the production is not controlled by one or more producers established outside the territory of the Member States; or

e) works co-produced within the framework of agreements related to the audiovisual sector concluded between the European Union and third countries and fulfilling the conditions defined in each of those agreements.

The works referred to in Paragraphs b)-c) are works mainly made with authors and workers residing in one or more of the States referred to in those provisions provided that they comply with one of the following three conditions:

1. they are made by one or more producers established in one or more of those States,
2. production of the works is supervised and actually controlled by one or more producers established in one or more of those States,
3. the contribution of co-producers of those States to the total co-production costs is preponderant and the co-production is not controlled by one or more producers established outside those States.

The works referred to in Paragraphs c) and e) shall be recognized as European works if the works originating in Member States are not being the subject of discriminatory measures in the non-member State concerned.

1 Established by Subsection (61) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

2 Amended by Paragraph ba) of Subsection (3) of Section 125 of Act CCLII of 2013.

3 Amended by Paragraph bb) of Subsection (3) of Section 125 of Act CCLII of 2013.

4 Established: by paragraph (4) Section 26 of Act LXVI of 2012. In force: as of 3. 07. 2012.

10.¹ User shall mean a natural or legal person or other organization using or requesting electronic communications services or media services.

11. Cinematographic works shall mean cinematographic works as defined in the Copyright Act, excluding, among others, news and political magazines, program magazines on current affairs and services, sports programs or programs containing broadcasts on other events, game shows and contests, and commercial communications. Cinematographic works shall, in particular, mean feature films, films made for television, television feature film series, animation films and documentaries.

12. Independent program maker shall mean a production company, in which neither the media service provider affected nor the owner with a qualifying holding in that media service provider has an ownership interest directly or indirectly; and neither any director or executive employee of the media service provider nor any of their close relatives have any employment relationship with or ownership interest in such a production company.

13. Networking shall mean the interconnection of two or more media service providers providing linear media services or the interconnection of two or more linear media services for the simultaneous or quasi-simultaneous broadcasting of the same program or broadcast.

14. Network media service provider shall mean any media service provider providing linear media services whose broadcast or program is disseminated by way of providing media services in a network.

15. Local media services shall mean media services intended for local audiences, covering an area or a city whose population is, respectively, less than one hundred thousand or five hundred thousand on an annual average.

16. Government disaster relief agency shall mean a law enforcement agency responsible for carrying out disaster relief operations, also executing administrative duties.

17. News program shall mean a program which allocates at least ninety percent of its duration to cover current events taking place in Hungary and elsewhere, not including traffic reports, weather forecasts and sports news coverage.

18. Information society services shall mean the services defined as such in the act on information society services.

19. Game show shall mean a program in which members of the audience or the contestants participating play a game which involves answering questions or solving puzzles usually for the purpose of winning a prize contributed by the media service provider or a third party. Talent search programs and games played over the telephone or interactive games known as teleshopping or functioning as teleshopping windows are not considered game shows.

20.² Commercial communication shall mean any media content which is designed to promote, directly or indirectly, the goods, services or image of a natural or legal person pursuing an economic activity. Such content accompanies or is included in the media content in return for payment or for similar consideration or for self-promotional purposes. Forms of commercial communication include, *inter alia*, advertising, sponsorship with a view to promoting the sponsor's name, trade mark, image, activities or products, teleshopping and product placement.

21.³ Teletext shall mean a program made available by means of linear audiovisual media service, principally serving the purpose of conveying information, and it may also contain still images, moving images, sounds and computer graphics.

21a.⁴ Publisher shall mean a natural or legal person whose business is to provide the means, in terms of personnel and infrastructure, for the publication of a press product on a regular basis, according to the agreement concluded with the founder in the event that the founder and publisher are different persons or companies.

22. Publication shall mean:

a) any book in printed or electronic format, on disk, on cassette tape or any other physical medium; online and downloadable books;

b) any press product in printed or electronic format; online or downloadable periodical publications;

1 Amended by Paragraph bb) of Subsection (3) of Section 125 of Act CCLII of 2013.

2 Amended by Paragraph bc) of Subsection (3) of Section 125 of Act CCLII of 2013.

3 Established by Subsection (62) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

4 Enacted by Subsection (3) of Section 45 of Act XXXIX of 2014, effective as of 30 September 2014.

c) any other printed matter (address and name directories, publications containing graphics, drawings or photos, maps; flyers; printed postcards, greeting and similar cards; printed pictures, samples, photos; printed calendars; printed business advertisement sections, catalogues, brochures, posters and similar items; other texted publications) excluding printed self-adhesive labels (stickers), postal-, excise duty-, duty-, etc. stamp; pre-stamped stationary, checks, bank notes, share certificates, postal goods, bonds, deeds and similar instruments;

d) any products of film-, video-, and television program production (movies intended for public showing on tape, on video tape, on disc or other physical medium; downloadable films, videos);

e) any sound recordings (intended for public showing, pre-recorded tapes, discs, downloadable sound content);


f) musical works (printed on paper, music recorded in electronic format, downloadable musical works).

23. Complementary media services shall mean all services involving content provision, which are disseminated through a broadcast transmission system, other than media services or electronic communications services. Complementary media services shall, for example, cover electronic program guides.

24. Small community media services shall mean - in the case of stereo broadcast - local linear radio community media services covering a geographical area of a radius of one kilometer from the radio station.

25. Regional media services shall mean media services covering an area larger than the area of coverage of small community media services, where the population of such an area is less than half the entire population of the country.

26. Close relative shall mean spouses and registered partners, next of kin, adopted children, stepchildren, foster children, adoptive parents, stepparents, foster parents, and brothers and sisters.

 27.¹ Public service announcement shall mean any announcement released free of charge, made by an organization or person fulfilling State or local governmental responsibilities, or by an institution operated or managed by the State, conveying certain specific information of public concern intended to attract the attention of the viewers or listeners, and that is not treated as political advertisement.

28.² Audience share shall mean the measurement of the ratio expressed in percentage paragraphs of the total time spent on viewing the programs of the linear audiovisual media services and listening to the programs of the linear radio media services in relation to the total time spent on viewing all the linear audiovisual media services programs and listening to all the linear radio media services programs. For the purpose of determining the audience share the market for linear audiovisual media services and linear radio media services within the territory of Hungary shall be considered separately.

29. Indirect ownership shall mean when shares in the capital or the voting rights of a company are controlled through the shares or voting rights held by another company in that company (hereinafter referred to as intermediary company). If there is any difference between the ownership share and the voting rights, the greater one shall apply. The extent of indirect ownership shall be determined by multiplying the capital or voting right held in the intermediary company by the capital or voting right held by the intermediary company in the original company. If the ownership share or voting right held by the company in the intermediary company is higher than fifty per cent, it shall be treated as a whole. In the case of natural persons, the ownership shares and voting rights held or exercised by close relatives shall be applied concurrently.

30. Intermediary service provider shall mean any provider of information society services:

a) engaged in the transmission of information supplied by the recipient of the service through a telecommunications network, or who provides access to a telecommunications network (mere conduit and network access);

b) engaged in the transmission of information supplied by the recipient of the service in a telecommunications network, performed for the sole purpose of making more efficient the information's onward transmission to other recipients of the service upon their request (caching);

c) engaged in the storage of the information supplied by the recipient of the service (hosting);

1 Established by Subsection (1) of Section 27 of Act CVII of 2014, effective as of 1 January 2015.

2 Amended: by subparagraph c) Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.

d) engaged in providing tools to the recipient of the service for the location of information (location tool services).

☞ 31. Public media services shall mean media services provided by public media service providers.

☞ 32.¹ Public media service provider shall mean a media service provider defined in Subsection (1) of Section 84 of this Act, established for the purpose of implementation of the objectives of public media services, and a media service provider established by a media service provider defined in Subsection (1) of Section 84, or a media service provider established by a business association in which the media service provider defined in Subsection (1) of Section 84 has a qualifying holding.

☞ 33.² Public service media assets shall mean cinematographic and other audiovisual works, radio programs, sound recordings and other documents incidental 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 notes) ordered by the public service media provider, its predecessors, the Fund, produced on any legal grounds, obtained by purchase or obtained or created in whole or in part under use contracts or any other form of agreement; public media assets shall also cover copyrighted costumes, props, film sets and other authentic works, provided that the copyrights and certain related rights, and use rights are owned or used to be owned by any predecessor of the public service media provider prior to the act entering into force, or by the Fund subsequent to the act entering into force, including those over which the predecessors of the public service media provider obtained, or the public media service provider itself obtains rights subsequent to this Act entering into force.

34. Publication shall mean disclosure by means of posting on the Authority's bulletin board, and/or on the official website of the Authority. The time of posting on the Authority's bulletin board shall be recognized as the time of publication.

35. On-demand media service shall mean a media service provided by a media service provider for the viewing of or listening to programs at the moment chosen by the user and at his individual request on the basis of a catalogue of programs selected by the media service provider.

36. Linear media service shall mean a media service provided by a media service provider for simultaneous viewing of or listening to programs on the basis of a program schedule.

37.³ Hungarian works shall mean:

a) works originally produced in Hungarian in their entirety;

b) works originally produced in several languages, however, in terms of time, the parts originally produced in Hungarian are longer than any other parts produced in any other language;

c) works originally produced in the languages of any of the nationalities recognized by Hungary, provided that their subject matter concerns the life or culture of the given nationality in Hungary;

d) any musical program performed in Hungarian or performed in the language of any of the nationalities recognized by Hungary, provided that its subject matter concerns the culture of the given nationality in relation to Hungary;

e)⁴ any instrumental musical program, which forms part of Hungarian cultural heritage or the culture in relation to Hungary of any of the nationalities recognized by Hungary.

f)⁵

38. Hungarian musical works shall mean any musical works with lyrics and instrumental musical works, which are recognized as Hungarian.

39.⁶ Media regulations shall mean this Act and Act CIV of 2010 on Freedom of the Press and on the Basic Rules Relating to Media Content, and any legislation published in respect of the implementation of the aforementioned acts, any directly applicable legislation of the European Union concerning the media, any broadcasting agreement, any administrative agreement entered into by and between the Media Council and the Office, and the resolutions adopted by the Media Council or the Office.

1 Established by Subsection (63) of Section 64 of Act CVII of 2011. Amended by Paragraph m) of Subsection (2) of Section 125 of Act CCLII of 2013.

2 Established by Subsection (4) of Section 27 of Act CVII of 2014, effective as of 1 January 2015.

3 Established: by paragraph (5) Section 26 of Act LXVI of 2012. In force: as of 3. 07. 2012.

4 Established: by Section 6 of Act XXXIII of 2013. In force: as of 5. 04. 2013.

5 Repealed: by Section 9 of Act XXXIII of 2013. No longer in force: as of 5. 04. 2013.

6 Amended by Subsection (64) of Section 64 of Act CVII of 2011.

40.¹ Media service shall mean an economic service defined by Articles 56 and 57 of the Treaty on the Functioning of the European Union, pursued commercially on own account - performed on a regular basis under economic exposure with a view to making a profit - which is under the editorial responsibility of a media service provider and the principal purpose of which is the provision of programs - in order to inform, entertain or educate - to the general public by electronic communications networks.

41.² Media service provider shall mean the natural or legal person who has editorial responsibility for the choice of the content of the media service and determines the manner in which it is organized. Editorial responsibility means the exercise of effective control both over the selection of the media content and over its organization, and does not necessarily imply any legal liability for the media services provided.

42. Media content shall mean the content offered by means of all media services and press products.

43. Media content provider shall mean any media service provider and the provider of any media content.

44. Broadcast shall mean a series of radio or audiovisual programs edited and disseminated to the general public on a regular basis.

45. Preview shall mean any program intended for the purpose of introducing, promoting or drawing attention to a proposed future program or programs of the media service provider.

46. Transmission time shall mean the total time of the programs continuously transmitted in the course of the media service during a specific period of time.

47.³ Program shall mean a set of sounds, and/or moving or still images with or without sound constituting an individual item within a schedule or a catalogue established by a media service provider and the form and content of which are comparable to the form and content of radio or television broadcasting.

48. Products ancillary to programs shall mean products and services ancillary to and directly derived from a specific program, intended specifically to allow the audience, viewers or listeners to benefit fully from, or to interact with, these programs.

49. Free-to-air broadcasting shall mean broadcasting where analogue or digital radio or audiovisual media services are transmitted to the subscribers and users by means of a - normally one-way - terrestrial transmission system using radio frequencies, other than frequencies which are primarily allocated for satellite systems. Free-to-air broadcasting shall also include broadcasting implemented using a digital broadcasting network or broadcasting transmitter.

50. Broadcasting shall mean electronic communications services irrespective of the type of transmission system used, where the analogue or digital signals produced by the media service provider are transmitted to the receiver equipment of subscribers and users, irrespective of the type of transmission system and technology employed. Broadcasting shall, in particular, include free-to-air broadcasting, broadcasting by satellite systems, broadcasting via hybrid transmission networks comprising optical fiber cables and coaxial cables, furthermore, transmission using an Internet Protocol through any transmission system, if the nature and the conditions of service are identical to those of broadcasting, or it is a suitable substitute for broadcasting and any other form. Broadcasting shall, furthermore, include the type of broadcasting that is made available to subscribers for a fee, including if it is offered in a package together with other electronic communications services. The transmission of signals through transmission systems suitable for the connection of less than ten receiver equipment shall not be considered broadcasting.

51. Broadcaster shall mean the provider of broadcasting services, including the operator of a digital broadcasting network, if engaged in the pursuit of broadcasting activities itself. If the transmission network is not operated by the broadcaster, the service provider that defines the conditions for the supply of services to the subscriber or user and/or concluding the contract with the subscriber shall be recognized as the broadcaster.

51a.⁴ Broadcast transmission platform shall mean an analogue or digital transmission system for the conveyance of signals using the same technology.

1 Established by Subsection (1) of Section 10 of Act XIX of 2011, effective as 6 April 2011. See Subsection (1) of Section 11 of Act XIX of 2011.

2 Amended by Paragraph bc) of Subsection (3) of Section 125 of Act CCLII of 2013.

3 Amended by Subsection (65) of Section 64 of Act CVII of 2011.

4 Enacted: by paragraph (7) Section 28 of Act LXVI of 2012. In force: as of 3. 07. 2012.

52.¹ Nation-wide media service shall mean the supply of media services covering an area of at least fifty per cent of the population of Hungary.

53. Split screen advertisement shall mean the type of advertisement displayed covering a particular portion of the screen during a program - other than a commercial communication - in the course of audiovisual media service.

54. Composite program shall mean a combination of several programs bearing a single main title or other distinctive feature.

55.² Political advertisement shall mean any program published, the purpose of which is to enhance or advocate support for a political party or political movement, or the government, or which promotes the name, objectives, activities, slogan, or emblem of such entities, which is displayed and/or published in a manner similar to that of an advertisement.

56. Political magazine shall mean any program - other than news programs - which devotes at least ninety percent of its duration for the analysis, coverage and evaluation of Hungarian or international political events or current public affairs and the exploration of the background of such affairs or events.

57. Program package shall mean media services offered or provided by the media service provider to the subscriber in a group.

58. Radio media services shall mean media services featuring programs composed of the sequence of sounds.

59. Advertising shall mean any form of representation or announcement - made within the framework of a program - broadcast in order to promote the supply of goods of a fungible nature that are capable of being delivered, including money, securities and financial instruments, and natural resources that can be utilized as capital goods, or services, including immovable property, rights and obligations, or in connection with this objective, the representation of the name, trade mark or the promotion of the activities or products of a company.

60.³ Press product shall mean the individual volumes of newspapers and other periodicals, as well as online journals and news portals, provided as an economic service under the editorial responsibility of a natural or legal person, and the principal purpose of which is the provision of content containing text and/or images - in order to inform, entertain or educate - to the general public in printed format or by electronic communications networks. Editorial responsibility means the exercise of effective control both over the selection of the media content and over its organization, that does not necessarily imply any legal liability for the media services provided. Economic service pursued commercially on own account, performed on a regular basis under economic exposure with a view to making a profit.

61. Sports program shall mean a program broadcasting a sports event (live, delayed or edited), excluding news reports over sports events and programs containing interviews and talk shows related to sports.

62. Member State shall mean any State that is a party to the Agreement on the European Economic Area.

63.⁴ Sponsorship shall mean any contribution made by a company for the financing of a media service provider or a program with a view to promoting its name, its trade mark, its image, its activities or its products.

64. Community facility advertisement shall mean any communication or message made in the public interest, other than political advertisement, without any commercial interest, not for advertising purposes, published in return for payment or free of charge, aiming to influence the viewer or the listener of the media service to achieve a goal of public interest.

65. Teleshopping shall mean a form of advertisement featuring direct offers broadcast to the public with a view to the supply - or use by other means - of goods or services, including rights and obligations and phone-ins operated as a business advertised in the media service, in return for payment or for similar consideration, by way of establishing direct contact with the distributor or service provider.

1 Amended: by subparagraph c) Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.

2 Amended: by subparagraph d) paragraph (3) Section 9 of Act CXXXI of 2013. In force: as of 1. 08. 2013.

3 Established by Subsection (2) of Section 10 of Act XIX of 2011. Amended by Paragraph bc) of Subsection (3) of Section 125 of Act CCLII of 2013.

4 Established by Subsection (66) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

66. *Teleshopping window* shall mean a teleshopping spot of a minimum uninterrupted duration of fifteen minutes.

67. *Thematic media service* shall mean any media service featuring - in the case of linear media services - broadcasts programs of a similar theme in eighty percent of the daily transmission time and - in the case of on-demand media services - broadcasts programs of a similar theme in eighty percent of the total time of all the programs broadcast, such as, for example news programs and political magazines, childrens programs, sports programs, musical programs, educational and knowledge-based programs and reality shows.

68. *Product placement* means any form of commercial communication consisting of the inclusion of or reference to a product, a service or the trade mark thereof so that it is featured within a program, in return for payment or for similar consideration.

69. *Election campaign period* shall mean the period of time as defined in the Act on Election Procedures available for conducting an election campaign.

70.¹ *Business entity* shall mean any natural person, private entrepreneur, business association, other legal entity.

71. *Area of transmission* shall mean:

a) in the case of media services provided through transmission or broadcasting 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 program transmission service within the framework of broadcasting and the calculated level of interference protection reach the lowest limit stipulated in the recommendations of the International Telecommunication Union;

b) in case of media services provided through another transmission diffusion system accessible without the payment of a subscription fee, the product of the number of households connected to the transmission system and the number of persons living in a single household on average as defined by the Központi Statisztikai Hivatal (*Central Statistics Office*); or

c) in the case of media services accessible in return for the payment of a subscription fee, the product of the number of households subscribed to the given media service or the number of households subscribed to the broadcasting service containing the given media service the number of persons living in a single household on average as defined by the Központi Statisztikai Hivatal.

72. *Virtual advertisement* shall mean an advertisement inserted into the program signal or the program itself subsequently through a digital technology or by any other method.

PART SIX

CLOSING PROVISIONS

Chapter I

Entry into Force

Section 204

(1) This Act - with the exception set out in Subsection (2) - shall enter into force on 1 January 2011.

¹ Established by Subsection (67) of Section 64 of Act CVII of 2011. Amended by Paragraph bd) of Subsection (3) of Section 125 of Act CCLII of 2013.

(2) Section 222 and Subsection (3) of Section 228 of this Act shall enter into force on 2 January 2011. Section 229 shall enter into force on the day when the provision of the Constitution granting regulatory rights to the President of the Nemzeti Média- és Hírközlési Hatóság (*National Media and Infocommunications Authority*) enters into force.¹ Subsections (6)-(8) of Sections 223 of and Schedule No. 5 to this Act shall enter into force on 2 January 2011.

(3) Sections 220-228 of this Act shall be repealed on 3 January 2011.

Chapter II

SHORT AND ABBREVIATED NAME OF THIS ACT

Section 205

This Act shall be referred to in other legislation as the Media Act (Mttv.).

Chapter III

Authorizations

Section 206

(1) The President of the Nemzeti Média- és Hírközlési Hatóság (*National Media and Infocommunications Authority*) is hereby authorized to decree:²

a)³ the frequency fees, the fees payable for the reservation and use of identifiers, as well as the fee for the supervision of communications and postal service providers, the terms and conditions of payment and the regulations on monitoring;

b) the administrative service fee payable for the administrative proceedings related to the rating of programs and announcements;

c) the terms and conditions for the payment of the fees charged for the procedures conducted by the Authority and the Media Council, and the amounts of such fees and the methods for calculating them.

(2)⁴ Insofar as the decrees referred to in Subsection (1) are not adopted by the President of the Nemzeti Média- és Hírközlési Hatóság, the decrees of ministers governing the relevant issues shall remain in force.

(3) The Government is hereby authorized to decree the suppliers of legal deposits, exemptions from the number of copies prescribed by this Act, the method and time limit for providing legal deposits, the rules of implementation, the list of organizations entitled to receiving legal deposits, the method of distribution, the rules for the safeguarding and use of legal deposits, as well as the procedures for any failure to provide legal deposits.

(3a)⁵ The Government is hereby authorized to decree the rules for the payment of program service fees due for linear audiovisual media services with the highest annual average audience share provided by SPI linear media service providers.

(4) The minister in charge of cultural affairs is hereby authorized to decree the detailed rules governing the display of imprints of publications.

(5) The minister responsible for audiovisual policy is hereby authorized to decree the detailed rules governing the administrative service fee payable for administrative proceedings specified in Section 171, as well as the management, registration and reimbursement of such fees.


¹ See Paragraph (2) of Article 7/A of Act XX of 1949.

² Amended by Subsection (1) of Section 229 of the same Act.

³ Established: by paragraph (8) Section 31 of Act LXVI of 2012. In force: as of 3. 07. 2012.

⁴ Amended by Subsection (1) of Section 229 of the same Act.

⁵ Enacted by Section 46 of Act XXXIX of 2014, effective as of 30 September 2014.

 (6)¹ The minister in charge of employment is hereby authorized to define the jobs provided for in Subsection (1) of Section 108/B by means of a decree.

Chapter IV

TRANSITIONAL PROVISIONS

Transitional Rules Pertaining to Broadcasting Agreements

Section 206/A²

Paragraph *b*) of Subsection (1) and Subsection (2a) of Section 42 of this Act, as established by Act LXXXV of 2012 on the Simplification of Proceedings under Family Law and Company Law, shall apply to the applications submitted on or after 1 February 2013.

Section 207

(1)³ The right to provide analogue terrestrial broadcasting under Act I of 1996 on Radio and Television Broadcasting (hereinafter referred to as "Media Act of 1996") and to provide analogue linear media services using limited State-owned resources specified in this Act may be exercised exclusively under a public contract concluded with the Media Council, with the exception of the media services provided by public media service providers covered by Point 32 of Section 203.

(2)-(5)⁴

(6)⁵ SPI linear media service providers may not charge any program service fee (broadcasting fee) for the provision of linear audiovisual media services with the highest annual average audience share until the date specified in Subsection (3a) of Section 206.

(6a)⁶ The provision set out in Subsection (6) applies also to those linear audiovisual media services with the highest annual average audience share provided by SPI linear media service providers which are recognized at the time of entry into force of Act XXXIX of 2014 on the Amendment of Certain Acts Relating to Budgetary Planning and With a View to Improving the Effectiveness of Money Market and Public Utility Services by the Media Council's administrative decision or under administrative agreement as linear audiovisual media services with the highest annual average audience share provided by SPI linear media service providers.

(7) The media service agreement may not be terminated if such agreement could not have been concluded due to any infringement, and the media service provider is not solely responsible for such infringement.

(8)⁷

(9)⁸ The infringements covered by the Press Act, or Chapter I of Part II of this Act, relating to subjects defined in the broadcasting agreement shall be adjudged under the relevant provisions of the Press Act and this Act, instead of the provisions set out in the broadcasting agreement.

Transitional Provisions Pertaining to Notification Requirements

1 Enacted by Subsection (5) of Section 27 of Act CVII of 2014, effective as of 1 January 2015.

2 Enacted by Section 39 of Act LXXXV of 2012. In force: as of 1. 02. 2013.

3 Established by paragraph (19) Section 29 of Act LXVI of 2012. Amended by Paragraph *d*) of Subsection (1) of Section 50 of Act XXXIX of 2014.

4 Repealed: by subparagraph *a*) paragraph (20) Section 29 of Act LXVI of 2012. No longer in force: as of 3. 07. 2012.

5 Established by Subsection (1) of Section 47 of Act XXXIX of 2014, effective as of 30 September 2014.

6 Enacted by Subsection (2) of Section 47 of Act XXXIX of 2014, effective as of 30 September 2014.

7 Repealed: by subparagraph *b*) paragraph (20) Section 29 of Act LXVI of 2012. No longer in force: as of 3. 07. 2012.

8 Enacted by Subsection (70) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

Section 208

(1) Providers of media services listed in the register operated by the Nemzeti Média- és Hírközlési Hatóság (*National Media and Infocommunications Authority*) pursuant to the Media Act of 1996 at the time of the entry into force of this Act shall provide within thirty days the data specified in the rules on the notification requirements set out in this Act and not listed in the register, without initiating a new notification procedure.

(2) Providers of press products listed in the register operated by the Kulturális Örökségvédelmi Hivatal (*National Office of Cultural Heritage*) (hereinafter referred to as "_KÖH") pursuant to Act II of 1986 on the Press (hereinafter referred to as "_Press Act of 1986") at the time of the entry into force of this Act shall provide within thirty days the data specified in the rules on the notification requirements set out in this Act and not listed in the register, without initiating a new notification procedure.

(3) Until 1 January 2012, the KÖH shall be responsible for the administrative duties related to the registration of printed press products and the management of newspaper registry. As of 1 January 2012, the Authority shall take over the duties related to the registration of printed press products pursuant to this Act.

(4) Media services, online press products already existing at the time of the entry into force of this Act, but not having been registered by either the Authority or the KÖH, shall be notified to the Authority by 30 June 2011 at the latest, while printed press products shall be notified to the KÖH by 30 June 2011 at the latest.

(5) If the publisher of printed press products shown in the register maintained by the KÖH at the time of entry into force of this Act, which, however, had not been 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, the product shall be removed from the register. In all other cases, the period specified pursuant to Paragraph c) of Subsection (6) of Section 46 subject to cancellation obligation shall commence on the day of the entry into force of this Act.

Sections 209-210²

Transitional Provisions Pertaining to the Members and Officers of the Bodies Defined by this Act

Section 211

(1) The entry into force of this Act shall not affect the mandate and term of office of presidents, vice-presidents, deputy presidents, executive directors, deputy directors, chief executive officers, deputy chief executive officers and members of the organizations and bodies specified in this Act.

(2) Delegation to the Közzolgálati Testület (*Public Service Board*) and the drawing - prescribed in Schedule No. 1 - prior to such delegation shall be carried out by 31 March 2011.

(3) If the President, members and joint auditor of the new Joint Supervisory Board of public service media providers are not elected by the date of the entry into force of this Act, the term in office of the members, presidents and auditors of the previous supervisory board shall end when the new Supervisory Board and auditor are elected.

¹ Amended by Subsection (71) of Section 64 of Act CVII of 2011.

² Repealed with preceding subtitle: by subparagraph c) paragraph (20) Section 29 of Act LXVI of 2012. No longer in force: as of 3. 07. 2012.

(4)¹ Subsection (3) of Section 111/A and Subsection (5) of Section 125, as established by Act XXXIII of 2013 on the Amendment of Act CIV of 2010 on Freedom of the Press and on the Basic Rules Relating to Media Content and Act CLXXXV of 2010 on Media Services and on the Mass Media (hereinafter referred to as "Act XXXIII/2013"), shall also apply to the President in office at the time of entry into force of Act XXXIII/2013, and to the chairman of the Media Council in office at that time. The entry into force of Act XXXIII/2013 shall not affect the mandate of the President in office at the time of entry into force, or the mandate of the chairman and members of the Media Council in office at that time.

Transitional Provisions Pertaining to Public Media Service Providers

Section 212

(1) The writer of the Terms and Conditions of Public Service Broadcasting formulated pursuant to the Media Act of 1996 shall update it according to the Public Service Code or, in the absence thereof, shall withdraw it.

(2) Regarding the term of employment of persons having worked as public servants at Magyar Televízió (*Hungarian National Television*), Magyar Rádió (*Hungarian National Radio*) and Magyar Távirati Iroda (*National News Agency*) prior to the establishment of Magyar Rádió Zrt. (Private Limited Company), Magyar Televízió Zrt. and Magyar Távirati Iroda Zrt., working uninterrupted at the same public media provider since, the period spent as public servants at Magyar Televízió, Magyar Rádió and Magyar Távirati Iroda shall be considered as time spent at the private limited companies.

(3) By way of derogation from the provisions of Subsection (2), for the purposes of determining the notice period and severance pay, the term of employment at Magyar Rádió Rt., Magyar Televízió Rt. and Magyar Távirati Iroda Rt. shall be reckoned from the date of public service having been transformed into an employment relationship. The period of exemption and the rate of the severance pay calculated on the basis of the term of the previous public servant legal relationship, in accordance with the provisions of the PSA in effect at the time of conversion of the legal relationship, shall be added to the term of notice and the rate of the severance pay.

(4) In respect of any claims arising from the public servant legal relationship prior to the conversion referred to in Subsection (2), the provisions of the PSA in force at the time of the inception of the claims shall apply, while in respect of the enforcement of such claims, the provisions of Act XXII of 1992 on the Labor Code shall apply.

Section 213

(1) In 2011, the Board of Trustees of the Közzolgálati Közalapítvány (*Public Service Foundation*), the Fund and public service broadcasters shall receive aid as defined in the Budget Act for 2011. The methods and amount of public service financing specified in this Act (public service contribution) shall be first applied for the year 2012. In 2011, the usage charges defined in the Media Act of 1996 shall also form part of the Fund's financial resources.

(2) Regarding the reduction of capital of the limited company called for in relation to the assets transferred pursuant to Parliamentary Resolution No. 109/2010 (X. 28.), the provisions set out in Sections 271-272 of Act IV of 2006 on Business Associations shall not apply.

(3) The transfer of assets specified in Subsection (2) shall be exempted from duties. The costs of assets transferred to the Fund without consideration, calculated according to Act C of 2000 on Accounting shall be the same as the book value of those assets shown in the records of the public service broadcaster affected.

¹ Enacted: by Section 7 of Act XXXIII of 2013. In force: as of 5. 04. 2013.

(4) The rights and obligations of public media service providers construed from their contractual relations prior to the entry into force of this provision may be conveyed as a whole to the Fund, with unchanged terms and conditions. Changes in the persons of the parties stemming from the transfer shall have no effect on the original rights and obligations of the contracting parties. Accordingly, in respect of changes in the parties to contractual relations, the provisions of the Act on Public Procurement pertaining to contract amendments shall not apply. The rights and obligations of public media service providers construed in the capacity of contracting entity in public procurement procedures opened prior to the entry into force of this Act and still pending shall be assigned to the Fund based on a declaration issued by the public media service provider therefor.

(5) In the course of the transfer of assets implemented pursuant to Parliamentary Resolution No. 109/2010 (X. 28.), additional valid claims within the time limit payable by public media service providers arising from agreements already performed and by public media service providers arising from obligations already fulfilled, shall continue to be payable by the public media service provider. Such claims shall not be enforceable vis-à-vis the Fund.

(6)¹ The state tax authority shall authorize the Fund and public media service providers to join a group taxation arrangement upon their request submitted according to Subsection (3) of Section 8 of Act CXXVII of 2007 on Value Added Tax effective as of the time indicated jointly by the Fund and the public media service providers.

(7)² Subsection (6) of this Section, and Subsection (11) of Section 108 shall apply as of 1 January 2011.

Section 214

(1) In order to enforce the provisions of this Act, broadcasters and public media service providers may initiate with the other party the review and amendment of broadcasting agreements concluded before 31 December 2010. Neither of the parties may refuse to participate in the discussions on the amendment of such agreements.

(2)³ If the parties are unable to come to an agreement within three months of notice from the other party regarding the proposed review and amendment of the agreement, either of the parties may contact the Nemzeti Média- és Hírközlési Hatóság (*National Media and Infocommunications Authority*) for the opening of proceedings for action in dispute pursuant to the relevant provisions of the Act on Electronic Communications in order to establish the contents of the agreement.

Section 215

In order to maintain artistic standards, the Fund shall be responsible for the maintenance and development of the art groups of Magyar Rádió Nonprofit Zrt. following the entry into force of this Act. The minister in charge of cultural affairs and the Fund may conclude an agreement on any change in the party responsible for maintaining art groups.



Section 215/A⁴

¹ Enacted by Subsection (2) of Section 7 of Act XXXI of 2011, effective as 2 April 2011.

² Enacted by Subsection (2) of Section 7 of Act XXXI of 2011, effective as 2 April 2011.

³ Established by Subsection (73) of Section 64 of Act CVII of 2011, effective as of 3 August 2011. See Subsection (3) of Section 71 of Act CVII of 2011.

⁴ Enacted by Section 29 of Act CVII of 2014, effective as of 1 January 2015.

➡(1) Magyar Rádió Zártkörűen Működő Nonprofit Részvénytársaság (*Hungarian National Radio Private Limited Company*), Magyar Televízió Zártkörűen Működő Nonprofit Részvénytársaság (*Hungarian National Television Private Limited Company*), and Magyar Távirati Iroda Zártkörűen Működő Nonprofit Részvénytársaság (*National News Agency Private Limited Company*) owned by the Public Service Foundation as public media service providers shall cease to exist upon merging into the Duna Televízió Zártkörűen Működő Nonprofit Részvénytársaság (*Duna Television Private Limited Company*). By way of derogation from Paragraph *b*) of Section 91 of the Media Act, the Public Foundation shall have the right and obligation to adopt at the latest by 31 March 2015 the decision on the owner's behalf for carrying out the merger. Parliament shall have the responsibility to amend the charter document of the Public Service Foundation relative to the merger. The name of Duna Televízió Zártkörűen Működő Nonprofit Részvénytársaság shall be changed after the merger to Duna Médiaszolgáltató Nonprofit Zártkörű Részvénytársaság (*Duna Media Service Nonprofit Private Limited Company*).

➡(2) The Public Service Foundation shall make the merger decision in a single meeting. Other steps for the registration of merger shall be taken by Duna Televízió Zártkörűen Működő Nonprofit Részvénytársaság in cooperation with the Public Service Foundation, the Fund and other companies involved in the merger in order to ensure that the date of transformation shall occur on 1 July 2015.

➡(3) As regards the merger of public media service provider limited companies the provisions of Act V of 2013 of the Civil Code (hereinafter referred to as "*Civil Code*"), Act CLXXVI of 2013 on the Transformation, Merger and Division of Legal Entities (hereinafter referred to as "*LPT*") and Act V of 2006 on Public Company Information, Company Registration and Winding-up Proceedings (hereinafter referred to as "*CRA*") shall apply subject to the following exceptions:

➡*a*) Section 9, Subsections (2)-(4) of Section 10 and Subsection (5) of Section 14 of the LPT, Section 3:40 of the Civil Code and Subsections (1a) and (5) of Section 57 of and Point III.5 of Schedule No. 1 to the CRA shall not apply;

➡*b*) Subsection (4) of Section 3:36 of the Civil Code shall apply with the derogation that execution of the resolution may not be suspended;

➡*c*) Subsection (1) of Section 57 of the CRA shall apply with the derogation that the administrative time limit in connection with the request shall be ten working days.



Section 215/B¹

➡(1) The assets of the public media service provider - apart from the assets tied to certain functional duties - shall be transferred under this Act to the State free of charge, and ultimately to the Fund for exercising ownership rights. After the merger Duna Médiaszolgáltató Zrt. and the Fund shall enter into a sales agreement on the transfer of ownership and other related duties. The agreement shall also provide for the transfer of rights and obligations arising from or in connection with the legal relationships connected to the transferred assets. Changes in the persons of the parties stemming from the transfer shall have no effect on the original rights and obligations of the contracting parties. Accordingly, in respect of changes in the parties to contractual relations, the provisions of the Act on Public Procurement pertaining to contract amendments shall not apply. The rights and obligations of the public media service provider, and its predecessors, construed in the capacity of contracting entity in public procurement procedures opened prior to the entry into force of this Act and still pending shall accrue to the Fund based on a declaration issued by the public media service provider therefor.

➡(2) In the application of Subsection (1) assets tied to certain functional duties shall mean assets serving the needs of departments set up in the process of internal division of responsibilities within the public media service provider, more specifically for the maintenance of institutions and internal administration, such as equipment and technical means used for human resources management, financial management, legal affairs, communications, control and monitoring, coordination and other similar activities, as well as information technology applications for use internally. The Public Foundation shall have the right and obligation to identify and define, by recommendation of the public media service provider, the specific assets for such purposes.

¹ Enacted by Section 29 of Act CVII of 2014, effective as of 1 January 2015.

➡(3) Ownership title of the assets affected shall accrue to the Hungarian State under this Act, on the day when the agreement is executed. The transfer of those assets shall be exempt from duties. The costs of assets transferred to the State without consideration, calculated according to Act C of 2000 on Accounting shall be the same as the book value of those assets shown in the records of the public media service provider affected.

➡(4) The Fund shall bear liability as a surety for claims arising before the entry into force of Act CVII of 2014 on the Amendment of Regulations Relating to Public Media Services and the Media Market for the assets transferred, in liquidation proceedings opened within three years following that date of entry into force of this Act.



Section 215/C¹

➡The employment contracts of the affected employees of the public media service provider and the Fund shall be amended to ensure that they comply with the provisions set out in Section 108/B. Negotiations for such amendment shall be concluded by 31 March 2015. If the parties fail to agree by that time in the amendment of the employment contracts, Section 108/B shall apply mutatis mutandis to those employment contract as of 1 April 2015.

Transitional Provisions Pertaining to the Authority and its Procedures

Section 216

(1) Following the entry into force of this Act, the provisions of this Act - subject to the exceptions set out in Subsections (2)-(5) - shall apply in procedures brought before the Media Council or the Office, falling within the scope of this Act.

(2) In the course of tender procedures opened before the entry of this Act into force the Media Council and the Fund shall proceed according to the procedural rules in effect at the time when the given procedural step is carried out as follows:

a) in tender procedures where the Media Council selected the winner of the tender procedure prior to the entry into force of this Act, the Media Council and the Fund shall conclude a public contract with the successful tenderer following the entry into force of this Act, proceeding in compliance with the provisions thereof;

b) in tender procedures where tenderers have already submitted their tenders, however, the Media Council has not yet announced the winner or has not declared the procedure as unsuccessful, the Media Council shall, following the entry into force of this Act, proceed in accordance with the provisions of Act I of 1996 on Radio and Television Broadcasting pertaining to the general tender conditions and the tender notice, as well as the examination, evaluation and assessment of tenders, with the proviso that its decisions shall be made in administrative proceedings in accordance with the rules of procedure defined in this Act and that it concludes a public contract with the successful tenderer. The tender procedures in progress shall, following the entry into force of this Act and pursuant thereto, be treated as administrative matters and as legal relations in administrative proceedings;

c) in tender procedures for the exploitation of rights to provide analogue linear radio media services published prior to 6 September 2010, the Media Council may review and amend the draft tender notice and the wording of the tender notice approved by the predecessor Board. If the Media Council decides to modify the draft or final version of the tender notice, the Media Council shall publish the codified version by way of the means specified in Section 50 and shall hold a hearing. If a tender notice draft or a tender notice has already been published in the given tender procedure, the Media Council shall inform the general public in a notice specified in Subsection (3) of Section 50 and also on its website concerning the reasons for having the tender notice re-published and for holding the hearing once again.

(3) In connection with any infringement committed prior to the entry into force of this Act, the provisions of substantive law effective at the time they were committed shall apply.

¹ Enacted by Section 29 of Act CVII of 2014, effective as of 1 January 2015.

(4)¹ In the event of any infringement of the provisions of Sections 14 and 16-20 of the Press Act, and any infringement of the provisions specified in Chapter I of Part Two of this Act, the administrative proceedings against the provider of on-demand media services or press products, and against the provider of on-demand media services, respectively, may only be launched after 1 July 2011, for infringement committed after this date. Media service providers and broadcasters shall comply with the obligations set out in Subsection (3) of Section 9, Paragraph *a*) of Subsection (1) of Section 10, Subsection (3) of Section 72 and Subsection (3) of Section 74 of this Act following 1 April 2011. Administrative proceedings for violation of these obligations may only be opened against them for any infringement committed after this date.

(5) The provisions set out in Section 171 shall apply to proceedings in progress, however, no fee shall be charged subsequently for the Media Council's proceedings.

(6) In 2011, the financial management of the Authority and the Media Council shall be provided from the funds defined in Act CXLVI of 2010 on the Annual Budget of the Nemzeti Média- és Hírközlési Hatóság (*National Media and Infocommunications Authority*) and the Media Council of the Nemzeti Média- és Hírközlési Hatóság, in compliance with the provisions laid down in Section 134. The remaining uncommitted funds in the budgets of the Nemzeti Média- és Hírközlési Hatóság and the Media Council, as well as the 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 Nemzeti Hírközlési Hatóság (*National Communications Authority*) and blocked in 2010 pursuant to the Government's resolution - shall be used to create 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. Residual amounts that have already been committed by 31 December 2010 shall be used by the Authority in accordance with the terms set out in the legal deed underlying the commitment.

(7) For the purposes of the Act on the 2011 Budget of the Republic of Hungary and Act CXLVI of 2010 on the Annual Budget of the Nemzeti Média- és Hírközlési Hatóság and the Media Council of the Nemzeti Média- és Hírközlési Hatóság, and the contractual obligations, the Műsorszolgáltatás Támogató és Vagyonkezelő Alap (*Broadcasting and Support Trust Fund*) referred to in those acts and contracts shall be understood as the Médiaszolgáltatás-támogató és Vagyonkezelő Alap (*Media Service Support and Asset Management Fund*).

(8)² Where Paragraph *a*) of Subsection (1) of Section 129 applies, the date of beginning of the mandate of the new chairperson and members of the Media Council shall be construed as the date of termination of the mandate of the previous chairperson and members. Where Paragraph *a*) of Subsection (1) of Section 113 applies, the date of beginning of the mandate of the newly appointed President of the Authority shall be construed as the date of termination of the mandate of the previous president. If the President of the Authority is not elected by Parliament as the chairperson of the Media Council within thirty days from the date of appointment, or, if the appointment is made on a date outside the Parliament session, within fifteen days after the beginning of the next session, the mandate of the previous chairperson shall remain in effect until the new chairperson of the Media Council is elected. If the Authority does not have an appointed president, the president's powers and duties shall be exercised by the chairperson of the Media Council, or by a member of the Media Council in the case defined in Subsection (2) of Section 131.

Section 217³

The provisions of this Act established by Act LXVI of 2012 on the Amendment o Regulations Relating to Media Services and Press Products shall also apply to proceedings already in progress, with the proviso that in connection with any infringement committed prior to the entry into force of such provisions, the provisions of substantive law effective at the time they were committed shall apply.

Section 218

¹ Amended: by subparagraph *f*) Section 8 of Act XXXIII of 2013. In force: as of 5. 04. 2013.

² Established: by paragraph (7) Section 30 of Act LXVI of 2012. In force: as of 3. 07. 2012.

³ Enacted: by Section 32 of Act LXVI of 2012. In force: as of 3. 07. 2012.

The management, maintenance and operation of the Nemzeti Audiovizuális Archívum (*National Audiovisual Archive*) (hereinafter referred to as "_NAVA") shall be carried out by the Authority as of 31 March 2011. The transfer of NAVA to the Authority shall be carried out by this date, including the transfer of the time-proportionate part of the budgetary aid granted for operation.

Section 218/A¹

The provisions of this Act established by Act CXXI of 2013 on the Amendments Required for the Digital Switch-Over of Local and Regional Television Channels and on the Amendment of Regulations Relating to Communications shall also apply to proceedings already in progress, with the proviso that in connection with any infringement committed prior to the entry into force of such provisions, the provisions of substantive law effective at the time they were committed shall apply.

Section 218/B²

The provisions of this Act established by Act XXXIX of 2014 on the Amendment of Certain Acts Relating to Budgetary Planning and With a View to Improving the Effectiveness of Money Market and Public Utility Services shall also apply to proceedings already in progress, with the proviso that in connection with any infringement committed prior to the entry into force of such provisions, the provisions of substantive law effective at the time they were committed shall apply. In proceedings opened before the time of entry into force of Act XXXIX of 2014 on the Amendment of Certain Acts Relating to Budgetary Planning and With a View to Improving the Effectiveness of Money Market and Public Utility Services under Subsection (2) of Section 16 of the Media Act, which are still in progress, the Media Council shall submit the draft of the list referred to in Subsection (2) of Section 16 to the European Commission for approval, on the understanding that after the entry into force of this Act such proceedings shall not be treated as administrative proceedings within the meaning of the APA.

Chapters V-VI³

Sections 219-228⁴

Chapter VI/A⁵

Compliance with the Majority Requirement Set Out in the Fundamental Law⁶

Section 229⁷

Sections 1-203 and Sections 206-218/B of, and Schedules Nos. 1 and 4 to this Act shall be considered cardinal pursuant to Article IX(6) of the Fundamental Law.

Chapter VII

Compliance with the Acquis

¹ Enacted: by Section 23 of Act CXXI of 2013. In force: as of 5. 07. 2013.

² Enacted by Section 48 of Act XXXIX of 2014, effective as of 30 September 2014.

³ Repealed: by Section 392 of Act CCI of 2011. No longer in force: as of 1. 01. 2012.

⁴ Repealed: by Section 392 of Act CCI of 2011. No longer in force: as of 1. 01. 2012.

⁵ Enacted: by paragraph (8) Section 389 of Act CCI of 2011. In force: as of 1. 01. 2012.

⁶ Enacted: by paragraph (8) Section 389 of Act CCI of 2011. In force: as of 1. 01. 2012.

⁷ Established by paragraph (8) Section 389 of Act CCI of 2011. Amended by subparagraph b) Section 22 of Act CXXI of 2013, subparagraph e) paragraph (3) Section 9 of Act CXXXI of 2013, Paragraph l) of Section 49 of Act XXXIX of 2014.

Section 230

(1) This Act serves the purpose of conformity with the following legislation 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 on information society services, in particular electronic commerce, in the internal market (Directive on electronic commerce);

c) Directive (EC) No. 2002/21 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 (EC) No. 2009/140 of the European Parliament and of the Council of 25 November 2009 amending Directives (EC) No. 2002/21 on a common regulatory framework for electronic communications networks and services, (EC) No. 2002/19 on access to, and interconnection of, electronic communications networks and associated facilities, and (EC) No. 2002/20 on the authorization of electronic communications networks and services;

e) Directive (EC) No. 98/27 of the European Parliament and of the Council of 19 May 1998 on injunctions for the protection of consumers' interests, Article 2(1) and Article 4(1).

(2) This Act contains provisions for the implementation of the legislation of the European Union in connection with the duties and proceedings of the Nemzeti Média- és Hírközlési Hatóság:

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.

Schedule No. 1 to Act CLXXXV of 2010

The Nominations Bodies listed below shall be entitled to delegate members for the Public Service Board as per the following:

1. Nominations Bodies:

a) Magyar Tudományos Akadémia (*Hungarian Academy of Sciences*)

b) Magyar Katolikus Egyház (*Roman Catholicism in Hungary*)

c) Magyarországi Református Egyház (*Reformed Church in Hungary*)

d) Magyarországi Evangélikus Egyház (*Evangelical-Lutheran Church in Hungary*)

e) Magyarországi Zsidó Hitközségek Szövetsége (*Alliance of Hungarian Jewish Faith Communes*)

f) Magyar Olimpiai Bizottság (*Hungarian Olympic Committee*)

g) Magyar Rektori Konferencia (*Hungarian Rectors' Conference*)

h) Magyar Kereskedelmi és Iparkamara (*Hungarian Chamber of Commerce and Industry*)

i)¹ associations and bodies of municipal governments of Hungary

j)² nation-wide self-governments of nationalities in Hungary

¹ Amended: by subparagraph c) Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.

² Amended: by subparagraph d) paragraph (2) Section 224 of Act CLXXIX of 2011. In force: as of 1. 01. 2012.

*k)*¹ Hungarian cultural organizations with over one hundred members registered in the States neighboring 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 bylaws 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 bylaws of which reflect the national scope of their operations

n) national associations of professionals operating in the field of literature, theater, 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 bylaws of which reflect the national scope of their operations, and the members of which are primarily persons and organizations active in the above listed fields.

2. The bodies under Paragraphs *a)-h)* shall be entitled to delegate one person each.

3. The bodies under Paragraphs *i)-n)* may take part in the delegation process if registered by the Office at least thirty days in advance. The Office shall decide on registration in an official resolution, against which no appeal may be lodged, however, a judicial review thereof can be requested.

4. The bodies under Paragraphs *i)-n)* shall be entitled to delegate one person each, where the bodies referred to in the same Paragraph shall be entitled to delegate one person jointly. The bodies referred to in the same Paragraph and the bodies registered may enter into an agreement with one another in respect of the person they wish to delegate. If no such agreement is reached, the Office shall decide by drawing the body whose nominee may be delegated.

*Schedule No. 2 to Act CLXXXV of 2010*²

*Schedule No. 3 to Act CLXXXV of 2010*³

Schedule No. 4 to Act CLXXXV of 2010

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 HUF 64,800,000,000, that is sixty-four billion eight hundred million Hungarian forints. This amount shall be indexed annually as from 2013 by the Hungarian index of consumer prices of at least the year preceding the year under review.

*Schedule No. 5 to Act CLXXXV of 2010*⁴

¹ Amended: by subparagraph *s)* Section 390 of Act CCI of 2011. In force: as of 1. 01. 2012.
² Repealed: by Section 392 of Act CCI of 2011. No longer in force: as of 1. 01. 2012.
³ Repealed: by Section 392 of Act CCI of 2011. No longer in force: as of 1. 01. 2012.
⁴ Inserted under Schedule No. 3 to Act CXLVI of 2010.

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Act CIV of 2010

on Freedom of the Press and on the Basic Rules Relating to Media Content¹


Recognizing the need for fostering community and individual interests as well as social integrity, and that the need for bolstering democracy with national and cultural identity, international law and EU policies, and technological development justifies the introduction of new regulations, taking into account the right to freedom of opinion and expression, and freedom of the press, and the outstanding cultural, social and economic role of media services and the importance of ensuring competition on the media market, Parliament has adopted the following Act on freedom of the press, on the basic rules relating to media content, and on the fundamental rights and obligations of media content providers and the public, to whom such services are provided:²

TITLE I

DEFINITIONS

Section 1

1.³ Media service shall mean an economic service defined by Articles 56 and 57 of the Treaty on the Functioning of the European Union, pursued commercially on own account - performed on a regular basis under economic exposure with a view to making a profit - which is under the editorial responsibility of a media service provider and the principal purpose of which is the provision of programs - in order to inform, entertain or educate - to the general public by electronic communications networks.

 2.⁴ Media service provider shall mean the natural or legal person who has editorial responsibility for the choice of the content of the media service and determines the manner in which it is organized. Editorial responsibility means the exercise of effective control both over the selection of the media content and over its organization, and does not necessarily imply any legal liability for the media services provided.

3.⁵ Program shall mean a set of sounds, or moving images with or without sound constituting an individual item within a schedule or a catalogue established by a media service provider and the form and content of which are comparable to the form and content of radio or television media services.

4. On-demand media service shall mean a media service provided by a media service provider for the viewing of or listening to programs at the moment chosen by the user and at his individual request on the basis of a catalogue of programs selected by the media service provider.

5. Linear media service shall mean a media service provided by a media service provider for simultaneous viewing of or listening to programs on the basis of a program schedule.

¹ Promulgated on 9 November 2010.

² Amended: by subparagraph a) Section 371 of Act CCI of 2011. In force: as of 1. 01. 2012.

³ Established: by paragraph (1) Section 1 of Act XIX of 2011. In force: as of 6. 04. 2011.

⁴ Amended by Paragraph a) of Subsection (2) of Section 123 of Act CCLII of 2013.

⁵ Amended: by paragraph (1) Section 65 of Act CVII of 2011. In force: as of 3. 08. 2011.

6.¹ *Press product* shall mean the individual volumes of newspapers and other periodicals, as well as online journals and news portal, provided as an economic service under the editorial responsibility of a natural or legal person and the principal purpose of which is the provision of content containing text and/or images - in order to inform, entertain or educate - to the general public in printed format or by electronic communications networks. Editorial responsibility means the exercise of effective control both over the selection of media content and over its organization, and does not necessarily imply any legal liability for the press product provided. Economic service pursued commercially on own account, performed on a regular basis under economic exposure with a view to making a profit.

7. *Media content* shall mean the content offered by means of all media services and press products.

8. *Media content provider* shall mean any media service provider and the provider of any media content.

9.² *Commercial communication* shall mean any media content which is designed to promote, directly or indirectly, the goods, services or image of a natural or legal entity pursuing an economic activity. Such content accompanies or is included in the media content in return for payment or for similar consideration or for self-promotional purposes. Forms of commercial communication include, inter alia, advertising, sponsorship with a view to promoting the sponsor's name, trade mark, image, activities or products, teleshopping and product placement.

10.³ *Surreptitious commercial communication* shall mean any published commercial communication that misleads the public as to its nature. A commercial communication may be considered to be surreptitious advertising if it is not done in return for payment or similar consideration.

11. *Advertising* shall mean any form of representation or announcement broadcast by a company in order to promote the supply of goods of a fungible nature that are capable of being delivered, including money, securities and financial instruments, and natural resources that can be utilized as capital goods, or services, including immovable property, rights and obligations, or in connection with this objective, the representation of the name, trade mark or the promotion of the activities or products of the company.

12.⁴ *Sponsorship* shall mean any contribution made by a business entity for the financing of media content providers or media content with a view to promoting their own name, trade mark, image, activities or products, or the name, trade mark, image, activities or products of others.

TITLE II

SCOPE

Section 2⁵

(1)⁶ This Act shall apply to all media services provided by media content providers established in Hungary.

(1a)⁷ Subject to the exceptions set out in Section 13, Subsection (1) of Section 14, Subsections (1), (2) and (4) of Section 19, and the second sentence of Subsection (8) and in Subsection (9) of Section 20, this Act shall also apply to the press products published by any media content provider established in Hungary.

1 Established by paragraph (2) Section 1 of Act XIX of 2011. Amended by Paragraph a) of Subsection (2) of Section 123 of Act CCLII of 2013.

2 Amended by Paragraph a) of Subsection (2) of Section 123 of Act CCLII of 2013.

3 Established: by paragraph (2) Section 65 of Act CVII of 2011. In force: as of 3. 08. 2011.

4 Established: by paragraph (3) Section 65 of Act CVII of 2011. In force: as of 3. 08. 2011.

5 Established: by paragraph (1) Section 222 of Act CLXXXV of 2010. In force: as of 2. 01. 2011.

6 Amended: by point 1 of Resolution No. 165/2011 (XII. 20.) AB of the Constitutional Court. In force: as of 31. 05. 2012.

Amended: by subparagraph b) Section 371 of Act CCI of 2011. In force: as of 1. 01. 2012.

7 Enacted: by Section 16 of Act LXVI of 2012. In force: as of 19. 06. 2012.

(2) For the purposes of this Act, a media content provider shall be deemed to be established in the territory of Hungary in the following cases:¹

a)² the media content provider uses a frequency appertaining to Hungary for the dissemination of analogue media services, or the media product is accessible through an electronic communications identification code designated primarily for users from Hungary;

b)³ its place of central management is located on the territory of Hungary, and editorial decisions concerning the media services and media products are made on the territory of Hungary;

c)⁴ if a media content provider has its head office in the territory of Hungary but editorial decisions are taken in another country, or vice versa, provided that a significant part of the workforce involved in the pursuit of the media content service activity operates in the territory of Hungary;

d)⁵ if a significant part of the workforce involved in the pursuit of the media content service activity operates in the territory of Hungary and in other States as well, the media content provider shall be deemed to be established in the territory of Hungary if it has its head office there; or

e)⁶ if a media content provider has its head office in the territory of Hungary but editorial decisions are taken in another country, or vice versa, the media content provider shall be deemed to be established in the territory of Hungary if it first began its activity in the territory of Hungary, provided that it maintains a stable and effective link with the Hungarian economy.

(3)⁷ This Act shall also apply to media services provided by a media content provider to which the provisions of Subsections (1)-(2) are not applicable, if they use a satellite up-link situated in the territory of Hungary or if they use satellite capacity appertaining to the Hungarian State.

(4)⁸ If, on the basis of Subsections (1)-(3), it cannot be established whether a media content provider falls within the jurisdiction of Hungary or another Member State, the media content provider shall be deemed to fall within the jurisdiction of the Member State in which it is deemed to be established within the meaning of Articles 49-55 of the Treaty on the Functioning of the European Union.

Section 3⁹

(1)¹⁰ This Act shall apply to media services and press products which are not covered by Subsections (1)-(4) of Section 2, and which are directed towards the territory of Hungary, or distributed or published in the territory of Hungary subject to the conditions set out in Sections 176-180 of Act CLXXXV of 2010 on Media Services and on the Mass Media (hereinafter referred to as "Media Act").

(2)¹¹ This Act shall apply to the media services and press products which are directed towards the territory of Hungary or which are distributed or published in the territory of Hungary by a media content provider that is not deemed to be established in any of the Member States of the European Economic Area and the media services or press products of which are not subject to the jurisdiction of any of the Member States.

(3) This Act shall apply to media content providers rendering media services or publishing press products that fall under the scope of the Act pursuant to Section 2 and Subsections (1)-(2) of this Section.

(4) In the event of any infringement of this Act, the Media Council of the Nemzeti Média- és Hírközlési Hatóság (*National Media and Infocommunications Authority*) may proceed and apply sanctions in accordance with the provisions of the Media Act on administrative proceedings".

1 Amended: by subparagraph c) Section 371 of Act CCI of 2011. In force: as of 1. 01. 2012.

2 Established: by paragraph (4) Section 65 of Act CVII of 2011. In force: as of 3. 08. 2011. Amended: by subparagraph d) Section 371 of Act CCI of 2011. In force: as of 1. 01. 2012.

3 Amended: by subparagraph d) Section 371 of Act CCI of 2011. In force: as of 1. 01. 2012.

4 Amended: by subparagraph d) Section 371 of Act CCI of 2011. In force: as of 1. 01. 2012.

5 Amended: by subparagraph d) Section 371 of Act CCI of 2011. In force: as of 1. 01. 2012.

6 Amended: by subparagraph d) Section 371 of Act CCI of 2011. In force: as of 1. 01. 2012.

7 Amended: by subparagraph e) Section 371 of Act CCI of 2011. In force: as of 1. 01. 2012.

8 Amended: by subparagraph c) Section 371 of Act CCI of 2011. In force: as of 1. 01. 2012.

9 Established: by paragraph (1) Section 222 of Act CLXXXV of 2010. In force: as of 2. 01. 2011.

10 Amended: by subparagraph d) Section 371 of Act CCI of 2011. In force: as of 1. 01. 2012.

11 Amended: by subparagraph e) Section 371 of Act CCI of 2011. In force: as of 1. 01. 2012.


TITLE III

FREEDOM OF THE PRESS

Section 4

(1)¹ The legal system of Hungary recognizes and respects the freedom of the press and its diversity.

(2) Freedom of the press embodies sovereignty from the State, and from any and all organizations and interest groups.

 (3)² Exercising the freedom of the press shall not involve or constitute the commission of a crime or abetting the commission of a crime, shall not be contrary to public morality, and shall not violate the rights of others relating to personality under any circumstances.

Section 5

(1)³ The taking up and pursuit of media services and the publication of press products may be rendered conditional by law upon registration by the competent authority. The conditions of registration may not inhibit the freedom of the press.


(2) In the case of the use by media service providers of limited state-owned resources, the taking up of media services may be rendered conditional upon successful participation in the tender published by the media authority.

Section 6⁴

(1) Media content providers and the persons they employ under contract of employment or some other form of employment relationship shall have the right in accordance with the relevant legislation not to reveal the identity of any person from whom they receive information relating to their activities in providing media content (hereinafter referred to as "source of information") in court and regulatory proceedings, and shall have the right to refuse to surrender any document, written instrument, article or data medium that may reveal the identity of the source of information.

(2) In justified cases specified by law, the court may - under exceptional circumstances - order media content providers and the persons they employ under contract of employment or some other form of employment relationship to reveal the identity of the source of information, or to surrender the document, written instrument, article or data medium that may potentially expose the source of information.

Section 7

 (1)⁵ Persons employed by media content providers under contract of employment or some other form of employment relationship shall have the right to professional sovereignty and independence from the owners of the media content provider, from the sponsors of the media content provider, as well from natural and legal persons on whose behalf any commercial communication is made in any media content, and also to protection against owners and sponsors applying pressure attempting to influence media content (editorial and journalistic freedom of expression).

(2) The sanctions prescribed in labor regulations, and those arising from other forms of employment relationship shall not apply to employees of media content providers engaged under contract of employment or some other form of employment relationship if they refused to carry out any instruction given in violation of editorial and journalistic freedom of expression.

1 Amended: by subparagraph f) Section 371 of Act CCI of 2011. In force: as of 1. 01. 2012.

2 Amended by Subsection (1) of Section 123 of Act CCLII of 2013.

3 Established: by paragraph (5) Section 65 of Act CVII of 2011. In force: as of 3. 08. 2011.

4 Established: by Section 17 of Act LXVI of 2012. In force: as of 3. 07. 2012.

5 Amended by Paragraph b) of Subsection (2) of Section 123 of Act CCLII of 2013.

Section 8

(1) Media content providers and persons employed by media content providers under contract of employment or some other form of employment relationship cannot be held responsible for any infringement committed with a view to obtaining information of common interest, where obtaining such information by other means would have been impossible for the journalist in question, or it would have entailed undue difficulties, provided that the infringement committed did not result in unreasonable or grave injury, and that the information obtained was not done so in violation of the Act on the Protection of Classified Information.

(2) The entitlement referred to in Subsection (1) above shall not constitute an exemption from civil liability for actual damages resulting from the infringement.

Section 9

Bodies of the central and local governments, institutions, officers, persons entrusted with official and public functions, and the directors of business associations under majority control by the State or municipal governments are required to provide assistance to media content providers in discharging their information duties by means of making available the necessary information to media content providers in due time, within the framework of regulations governing access to information of public interest and on the freedom of information.

TITLE IV

RIGHTS OF THE AUDIENCE

Section 10¹

Everybody has the right to be informed properly concerning local and national issues of public life and on events taking place in Europe, as well as on events which may be of concern to the people of Hungary and to members of the Hungarian nation in general. The media system on the whole is responsible to provide credible information quickly and accurately concerning these issues and events.

Section 11²

In Hungary, public service broadcasters shall participate in fostering and in the enhancement of national and European identity and national, ethnic, familial and religious communities, in the advancement of the Hungarian language and cultural heritage, including the languages and the culture of nationalities, with a view to satisfying the need of citizens for information and culture.

TITLE V

RIGHT TO REMEDY

Section 12

¹ Established: by Section 2 of Act XIX of 2011. In force: as of 6. 04. 2011. Amended: by subparagraph c) Section 371 of Act CCI of 2011. In force: as of 1. 01. 2012.

² Amended: by Section 226 of Act CLXXIX of 2011. In force: as of 1. 01. 2012. Amended: by subparagraph g) Section 371 of Act CCI of 2011. In force: as of 1. 01. 2012.

(1) Where published media content disseminates false facts or distorts true facts about a person, the person affected shall be entitled to demand the publication of an announcement to clearly identify the false, distorted and/or unfounded facts of the communication and indicate the true facts.

(2) The remedy communication shall be published - in the case of newspapers, online journals and news agencies within five days upon receipt of the request therefor, using the means similar in style and size as the contested part of the communication; in the case of on-demand media services within eight days upon receipt of the request therefor, using the means similar in style and size as the contested part of the communication; in the case of other periodicals after eight days from the time of receipt of the request therefor, in the next edition, using the means similar in style and size as the contested part of the communication; and in the case of linear media services also within eight days, using the means similar in style as the contested part of the communication, at the same time of day.

TITLE VI

OBLIGATIONS OF THE PRESS

Section 13¹

Linear media services engaged in the pursuit of information activities are required to ensure the diversity of their newscasts and news programs on local and national events of high interest to the public, including events from around Europe and events which may be of concern to the people of Hungary and to members of the Hungarian nation in general, as well as on public debates, and to ensure that the information they provide is balanced. The detailed rules relating to this obligation shall be laid down by law according to the principle of proportionality and under the democratic principles for the participation of citizens.

Section 14²

(1) Media service providers are required to ensure respect for the principle of human dignity in the media content they disseminate.

(2) Vulnerable people must, under no circumstances be displayed in media content in a degrading way with wanton disregard to dignity.

Section 15³

(1) Media content providers are prohibited from abusing the consent of a person interviewed for publication of his/her statement given in the interview, or his/her consent in participating in media content.

(2) Media content providers are required to show an interview made for public presentation to the person interviewed or participating in media content upon his/her request before publication; however, such may not be broadcast or published if the person affected refused consent for broadcasting or publication because the media content provider made changes in or distorted the interview as to substance, to the detriment of the person interviewed or participating in the media content. In the event of publication or broadcasting despite of said consent being withdrawn, in a way that is considered slanderous and injurious to reputation, the relevant civil and criminal provisions shall apply.

(3) Apart from the circumstances specified in Subsection (2), an interview or participation may not be withdrawn if:

a) the statement was made in connection with local, national or European issues of public life;

¹ Established: by Section 3 of Act XIX of 2011. In force: as of 6. 04. 2011. Amended: by subparagraph c) Section 371 of Act CCI of 2011. In force: as of 1. 01. 2012. Amended: by Section 1 of Act XXXIII of 2013. In force: as of 5. 04. 2013.

² Established: by Section 18 of Act LXVI of 2012. In force: as of 19. 06. 2012.

³ Established: by Section 19 of Act LXVI of 2012. In force: as of 19. 06. 2012.

b) it is connected to any event that may be of concern to the people of Hungary and to members of the Hungarian nation in general; or

c) it was made in relation to a person entrusted with official and public functions, or a political figure discharging his/her duties in the public interest.

(4) The media content provider may not conclude an agreement with a person participating in media content that contains any clause to violate the integrity and reputation of the person participating in media content or to restrict his/her right to privacy within the framework of the agreement, or to restrict his/her right to withdraw the interview or participation as provided for in Subsections (1) and (2). Any such clause shall be null and void.

Section 16¹

Media contents may not violate the constitutional order.

Section 17²

(1)³ Media content may not contain facilities for inciting hatred against peoples, nations, national, ethnic, linguistic and other minorities, or any majority or religious community.

(2)⁴ Media content may not be aimed for the disassociation of peoples, nations, national, ethnic, linguistic and other minorities, or any majority or religious community.

Section 18⁵

Section 19

(1) Linear media services may not feature any media content which might seriously impair the physical, mental or moral development of minors, in particular those that involve pornography or extreme or explicit scenes of violence.

(2) Any media content featured in on-demand media services which might seriously impair the physical, mental or moral development of minors, in particular those that involve pornography or extreme or explicit scenes of violence, may be made available to general audiences only in such a way as to ensure that minors will not normally hear or see such on-demand media services.

(3) Any media content featured in a press product which might seriously impair the physical, mental or moral development of minors, in particular those that involve pornography or extreme or explicit scenes of violence, may be published and made available to general audiences only in such a way as to ensure - by means of technical or other similar safeguards - that minors will not be able to access them. If such safeguards are not available, the media content in question may be published only with a warning concerning the potential endangerment to minors.

(4) Any media content featured in linear media services which is likely to impair the physical, mental or moral development of minors, may be broadcast only if it is ensured _ by selecting the time of the broadcast or by any technical measure _ that minors in the area of transmission will not normally hear or see such broadcasts.

(4a)⁶ Media contents may not feature minors in a way that is likely to seriously impair the minor's mental or physical development taking in account his/her age.

(5) The detailed regulations concerning the protection of minors in relation to media content are laid down in specific other legislation.

Section 20

(1) Commercial communications featured in media content shall be readily recognizable as such.

¹ Established: by Section 20 of Act LXVI of 2012. In force: as of 19. 06. 2012.

² Established: by paragraph (7) Section 65 of Act CVII of 2011. In force: as of 3. 08. 2011.

³ Amended: by Section 113 of Act CXXXIII of 2013. In force: as of 1. 08. 2013.

⁴ Amended: by Section 113 of Act CXXXIII of 2013. In force: as of 1. 08. 2013.

⁵ Repealed: by Section 22 of Act LXVI of 2012. No longer in force: as of 19. 06. 2012.

⁶ Enacted: by Section 21 of Act LXVI of 2012. In force: as of 19. 06. 2012.

- (2) Advertising in media content shall be readily distinguishable from the media content.
- (3) Surreptitious commercial communication shall be prohibited in media content.
- (4) Commercial communication featured in media content shall not use subliminal techniques.
- (5) Commercial communication featured in media content may not be published if it is offensive to religious or political beliefs.
- (6) Commercial communication featured in media content shall not encourage behavior prejudicial to health, safety or the environment.
- (7)¹ Commercial communications promoting and describing tobacco products, weapons, ammunition, explosives, gambling services provided without the state tax authority's authorization, prescription medicines and the popularizing of therapeutic procedures may not be featured in media content. This rule shall not apply to the exemptions set out in the Act on Commercial Advertising and in other relevant legislation.
- (8)² The sponsors of media content shall be identified at the time of publication or broadcasting, or immediately before or after the time of publication or broadcasting. Audiovisual media services or any program thereof may not be sponsored by another company providing audiovisual media services nor by any producer of audiovisual programs or cinematographic works.
- (9)³ Sponsored media content published or broadcast in media services must not encourage or advocate the purchase of the products or services of the sponsor or those of a third party designated by the sponsor, neither shall they discourage the purchase of such products or services.
- (10) The media content and scheduling of sponsored media content may not be influenced by the sponsor in such a way as to affect the responsibility and editorial freedom of the media content provider.

TITLE VII

LIABILITY

Section 21

- (1) Media content providers are vested with independent decision-making rights within the framework of the law concerning the publication of media content, and shall assume responsibility for abiding by the provisions of this Act.
- (2) The provisions set out in Subsection (1) shall not affect the liability - governed by other legislation - of persons supplying information to the media content provider, nor to the persons the media content providers employ under contract of employment or some other form of employment relationship involved in the preparation of the media content.

TITLE VIII

AMENDMENTS

Section 22⁴

TITLE IX

¹ Established: by Section 44 of Act CXXV of 2011. In force: as of 1. 01. 2012.

² Established: by paragraph (8) Section 65 of Act CVII of 2011. In force: as of 3. 08. 2011.

³ Amended: by subparagraph i) Section 371 of Act CCI of 2011. In force: as of 1. 01. 2012. The change does not effect the English version.

⁴ Repealed: by paragraph 2 Section 23 of this Act. No longer in force: as of 2. 01. 2011.

ENTRY INTO FORCE

Section 23

(1) This Act shall enter into force on 1 January 2011.

(2) Section 22 of this Act shall enter into force on the day following the time of entry of this Act into force.

Section 23/A¹

Sections 1-9 and Sections 12-21 of this Act shall be considered cardinal pursuant to Article IX(6) of the Fundamental Law.

TITLE X²

SHORT (ABBREVIATED) NAME OF THE ACT³

Section 24⁴

This Act shall be referred to in other legislation as the "Press Act".

TITLE XI⁵

COMPLIANCE WITH THE ACQUIS⁶

Section 25⁷

This Act serves the purpose of conformity with the following legislation of the Communities:

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 on information society services, in particular electronic commerce, in the internal market (Directive on electronic commerce);

c) Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising (codified version);

d) Directive 2003/33/EC of the European Parliament and of the Council of 26 May 2003 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products;

¹ Enacted: by Section 370 of Act CCI of 2011. In force: as of 1. 01. 2012. Amended: by Section 8 of Act CXXXI of 2013. In force: as of 1. 08. 2013.

² Enacted: by paragraph (4) Section 222 of Act CLXXXV of 2010. In force: as of 2. 01. 2011.

³ Enacted: by paragraph (4) Section 222 of Act CLXXXV of 2010. In force: as of 2. 01. 2011.

⁴ Enacted: by paragraph (4) Section 222 of Act CLXXXV of 2010. In force: as of 2. 01. 2011.

⁵ Enacted: by paragraph (5) Section 222 of Act CLXXXV of 2010. In force: as of 2. 01. 2011.

⁶ Enacted: by paragraph (5) Section 222 of Act CLXXXV of 2010. In force: as of 2. 01. 2011.

⁷ Enacted: by paragraph (5) Section 222 of Act CLXXXV of 2010. In force: as of 2. 01. 2011.

e) Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No. 2006/2004 of the European Parliament and of the Council;

f) Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use.

TARTALOMJEGYZÉK

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Act XXII of 2014 on Advertisement Tax

Having regard to the principle of proportionate sharing of public burdens, Parliament has adopted the following Act:

1. Interpretative provisions

Section 1

For the purposes of this Act,

1. *media services* shall mean the media services defined by Act CLXXXV of 2010 on Media Services and Mass Media (hereinafter referred to as 'Media Act');

2. *media service provider* shall mean a media service provider under the Media Act;

3. *media content* shall mean media content under the Media Act;

4. *media content provider* shall mean a media content provider under the Media Act;

5. *net sales revenue* shall mean:

(a) in case of taxpayers covered by Act C of 2000 on Accounting (hereinafter referred to as 'Accounting Act'), the net sales revenue defined by the Accounting Act;

(b) in case of taxpayers covered by Act CXVII of 1995 on Personal Income Tax (hereinafter referred to as 'Income Tax Act'), the revenue excluding value added tax as defined by the Income Tax Act;

(c) in case of taxpayers not covered by paragraphs (a) and (b), the revenue corresponding to the net sales revenue laid down in paragraph (a) above;

6. *printed material* shall mean any printed business advertising material, catalogue, brochure or advertising poster;

7. *advertisement* shall mean:

(a) any commercial advertisement under Act XLVIII of 2008 on the Basic Requirements and Certain Restrictions of Commercial Advertising Activities (hereinafter referred to as 'Advertising Act');

(b) any commercial communication under the Media Act;

8. *publication of advertisements* shall mean any publication under the Advertising Act irrespective of the fact whether the place, time or way of publishing the advertisement is determined by the contract on publication of advertisements;

9. *press product* shall mean any press product under the Media Act;

10. *advertisement for own use* shall mean any advertisement related to the own products, goods, services, activities, name or image of the publisher of the advertisement concerned;

11. *advertising agency* shall mean a person or organization qualifying as an affiliated undertaking of the taxpayer under the Accounting Act, who is entitled, under its contractual relationship with the taxpayer, to enter into contracts on publishing advertisements in the framework of the taxpayer's media content services.

2. Tax liability and taxpayers

Section 2

(1) The publication of an advertisement shall be taxable if it

(a) appears in media services;

(b) is published in Hungary or distributed in Hungary mostly in Hungarian language press products;

(c) appears on media qualified by the Advertising Act as outdoor advertising;

(d) appears on any vehicle, printed material or real property;

(e) shared on the Internet mostly in Hungarian language or mostly on Hungarian language websites.

- (2) Ordering the publication of an advertisement shall be taxable unless
- (a) the person making the order has obtained the statement specified in Section 3(3) from the taxpayer referred to in Section 3(1);
 - (b) the person making the order
 - (ba) requested the taxpayer referred to in Section 3(1) to issue the statement specified in Section 3(3) and can credibly demonstrate this fact, and
 - (bb) did not receive the statement requested in accordance with subparagraph (ba) within 10 working days from receipt of the invoice or accounting document for publishing the advertisement, and
 - (bc) notified the state tax authority of the fact referred to in subparagraph (ba), the name of the publishing person and the consideration of such publication;
 - (c) at the time of making the order, the taxpayer referred to in Section 3(1) is included in the list published on the website of the state tax authority and specified in Section 7/A hereof.
- (3) Publication of an advertisement under subsection (1) shall not be taxable if carried out by
- (a) a national sports association of a branch of sport or by a specialised national sports association (hereinafter jointly referred to as 'sports association')
 - (aa) in relation to the operation of a national sports team;
 - (ab) in relation to the performance of its training duties concerning junior teams;
 - (ac) in relation to the operation of an amateur tournament system; or
 - (b) a sports organization, sport school or junior training foundation operated as a member of a sports association
 - (ba) in relation to the performance of its training duties concerning junior teams; or
 - (bb) in relation to the participation in an amateur tournament system as defined in the Sports Act.

Section 3

- (1) Subjects of the advertisement tax shall be, irrespective of their domicile,
- (a) media content providers which qualify under the Media Act as companies established in Hungary;
 - (b) media service providers not covered by paragraph (a) above which make available during at least half of their daily broadcasting time Hungarian language media content in the territory of Hungary;
 - (c) publishers of press products not covered by paragraph (a) above;
 - (d) persons or organizations which utilize for the purpose of advertising outdoor advertising media as well as any vehicle, printed material or real property suitable for advertising;
 - (e) in case of advertisements published on the Internet, the publisher of the advertisement.
- (2) In case of a tax liability under Section 2(2) above, the taxpayer shall be the customer ordering the advertisement, irrespective of its domicile, excluding any private individual not qualified under Income Tax Act as a private entrepreneur.
- (3) The taxpayer under subsection (1) hereof shall make a statement in the invoice or accounting document or other document relating to the consideration of publishing the advertisement (especially in the agreement on publishing the advertisement) that it will be liable for the payment of the tax and it will comply with its declaration and payment obligations, or that no tax payment obligation is imposed on it for publishing advertisements in the tax year concerned. Should the person or organization referred to in subsection (1) fail to comply with its obligation to make such statement, the taxpayer under subsection (2) shall declare and pay the summarized tax for the publication of all advertisements ordered by itself on a monthly basis, until the 20th day of the month following the month of receiving the invoice or accounting document on publishing the advertisements. When complying with the tax payment obligation, the provisions of Section 7(1)–(8) and Section 9 shall not be applicable to the taxpayer under subsection (2).
- (4) The taxpayer under subsection (1) shall not be liable to make the statement referred to in subsection (3), if at the time of submitting the order it is included in the list published under Section 7/A.

3. Tax base

Section 4

(1) In case of taxpayers covered by Section 3(1), the tax base shall be the net sales revenue originating from the taxable activities in the current tax year, increased by the difference of the net sales revenue originating from the services under any agreement concluded between an advertising agency and a customer on publishing advertisements in the framework of the taxpayer's media content services and the consideration payable to the taxpayer by the advertising agency in connection with such transaction. In case of publication of advertisements for own use, the tax base shall be the actual cost directly incurred in relation to the publication of the advertisement.

(2) In case of taxpayers covered by Section 3(2), the tax base shall be the part of the total monthly consideration of publishing advertisements exceeding HUF 2,500,000.

4. Tax rate

Section 5

(1) In case of a tax base defined in Section 4(1) above, the tax rate shall be

- 0% after the portion of the tax base falling below HUF 0.5 billion;
- 1% after the portion of the tax base exceeding HUF 0.5 billion but falling below HUF 5 billion;
- 10% after the portion of the tax base exceeding HUF 5 billion but falling below HUF 10 billion;
- 20% after the portion of the tax base exceeding HUF 10 billion but falling below HUF 15 billion;
- 30% after the portion of the tax base exceeding HUF 15 billion but falling below HUF 20 billion;
- 50% after the portion of the tax base exceeding HUF 20 billion.

(2) In case of a tax base covered by Section 4(2) above, the tax rate shall be 20% of the tax base.

(3) Should the tax year be shorter than 12 months, the amount of the tax to be paid shall be calculated on the basis of the tax base under Section 4(1) calculated for 12 months based upon the number of calendar days in the current tax year, and from that tax base the taxable part shall be calculated *pro rata* in accordance with the number of calendar days in the current tax year, applying the tax rate specified in subsection (1) hereof.

5. Tax and tax advance payment obligation of affiliated undertakings

Section 6

(1) The tax payable by taxpayers classified as affiliated undertakings within the meaning of the Act on Corporate Tax and Dividend Tax must be calculated by aggregating the tax bases of taxpayers acting as affiliated undertakings, and the amount obtained by applying the rate defined in Section 5 to that total tax base must be divided between the taxpayers in proportion with their respective tax base, compared to the total tax base earned by all the linked taxpayers.

(2) The amount of tax advance shall be determined by the same method of tax calculation as laid down in subsection (1) above, also subject to Section 7 below.

(3) In order to implement the calculations referred to in subsections (1) and (2) above, all affiliated undertakings shall cooperate with each other. Each affiliated undertaking shall document the calculations (including preparation and preservation of such calculations). The documentation of the calculations shall be presented to the tax authority upon request.

(4) Should the legal relationship of 'affiliated undertaking', as specified in the Act on Corporate Tax and Tax Dividend, not exist during the whole tax year, only the tax base determined in accordance with Section 4(1) and calculated on a *pro rata* basis for the period of existence of the affiliated relationship shall be taken into account when applying subsections (1) and (2).

(5) When performing the calculations in subsections (1)–(4), the tax base under Section 4(2) shall be disregarded.

6. Procedural rules

Section 7

(1) Taxpayers shall establish their tax payment obligation and declare the amount thereof – by means of self-assessment – in a dedicated form to the state tax authority until the last day of the fifth month after each tax year.

(2) Taxpayers shall declare tax advance for the current tax year (i) in the cases referred to in paragraphs (a) and (b) of subsection (3), until the last day of the fifth month of the current tax year, (ii) in the cases referred to in paragraphs (c) and (d) of subsection (3), within 15 days upon the commencement of the taxable activity, in both cases in a dedicated form, to the state tax authority.

(3) The tax advance shall be:

(a) the amount calculated in accordance with Section 5 on the basis of the tax base originating from all taxable activities carried out in the tax year preceding the tax year concerned, if the duration of the taxpayer's previous tax year was 12 months;

(b) the amount calculated in accordance with Section 5 on the basis of a calculated 12-months tax base originating from all taxable activities carried out in the tax year preceding the tax year concerned, if the duration of the taxpayer's previous tax year was shorter than 12 months;

(c) the anticipated tax amount for the current tax year, if the taxpayer commenced its taxable activity in the current tax year without any legal predecessor;

(d) a *pro rata* tax amount calculated by the tax rate laid down in Section 5 on the basis of the tax base originating from the legal predecessor's taxable activities until the date of reorganization, merger or de-merger in the current tax year which is equal to the proportionate amount obtained by the taxpayer established by the reorganization, merger or de-merger (including the remaining company in case of a spin-off) from the legal predecessor company's assets, if the taxpayer was established by reorganization, merger or de-merger.

(4) Taxpayers shall pay their relevant tax by the date prescribed for submitting the tax declarations while the tax advances shall be paid (i) in two equal instalments, until the 20th day of the seventh month and by the 20th day of the ninth month of the tax year in the cases specified in paragraphs (a) and (b) of subsection (3), or (ii) in two equal instalments within 15 days from the date of commencement of activities and until the 20th day of the last month of the tax year in the cases specified in paragraphs (c) and (d) of subsection (3).

(5) Taxpayers shall supplement the tax advance to the amount of prospective tax liability estimated for the tax year (hereinafter referred to as 'supplement of tax advance'). Taxpayers liable to supplement their tax advance shall submit a declaration on the difference of the prospective tax due and the advances already declared for the same tax year until the 20th day of the last month of the tax year, and shall fulfil their payment obligation at the same time.

(6) Taxpayers not subject to advertisement tax shall not be obliged to submit any declaration on tax, tax advance or supplement of tax advance.

(7) The difference between the tax advance paid, the supplement of tax advance and the annual tax amount shall be paid until the last day of the fifth month following the tax year, and the amount of excess payment, if any, may also be reclaimed from that date.

(8) Taxpayers applying a business year different from the calendar year shall establish, declare and fulfil their tax and tax advance payment obligations in accordance with the rules in effect on the first day of the business year.

(9) The state tax authority shall be responsible for performing the official duties related to advertisement tax, and all revenues received from the tax shall be due to the central budget.

(10) Any procedural matter not regulated in this Act shall be governed by the provisions of Act XCII of 2003 on the Rules of Taxation.

(11) The tax established hereunder shall be accounted by all taxpayers under the Accounting Act against their pre-tax profit or loss.

Section 7/A

(1) The state tax authority shall maintain separate records as laid down in subsections (2)–(5) hereof, containing the name (company name) and tax number of all taxpayers referred to in Section 3(1), and shall publish those records on its website.

(2) Taxpayers referred to in Section 3(1) shall be registered by the state tax authority upon request if

(a) they fulfilled their tax and tax advance declaration obligations as well as their tax and tax advance payment obligations in due time; or

(b) they submit a statement to the state tax authority that they have no tax payment obligation in the tax year concerned.

(3) Prior to registration the state tax authority may examine by means of an audit whether the statement referred to in paragraph (b) of Section 2 is well-founded.

(4) The taxpayer shall be deleted from the records referred to in subsection (1) and published on the state tax authority's website:

(a) upon the taxpayer's request;

(b) if the taxpayer fails to comply with its declaration obligation or fails to meet its tax payment obligation in full;

(c) contrary to the taxpayer's statement specified by paragraph (b) of subsection (2), there is a tax payment obligation imposed on the taxpayer for the tax year concerned unless the taxpayer fulfils such obligation in accordance with the provisions hereof;

(d) at the end of the tax year, in case of taxpayers filing a statement referred to in paragraph (b) of subsection (2);

(e) if the taxpayer is terminated;

(f) if the taxpayer becomes subject to liquidation, voluntary dissolution or compulsory deregistration procedure;

(g) if the taxpayer's overdue taxes exceed HUF 100,000 on the first day of any calendar month.

(5) Any change occurring in the data shall be entered into the records referred to in subsection (1) by the state tax authority on the day it becomes aware of it, and shall publish such change on its website on the first day of the month following the entry.

7. Closing provisions

Section 8

Section 9

(1) If the taxpayer commenced its activities referred to in Section 2 prior to the entry into force of this Act, the amount of the tax payable for 2014 shall be equal to the proportionate part of the tax base calculated in accordance with Section 5 on the basis of the tax base originating from its activities performed in 2014 and referred to in Section 2 above, or – in case of an activity referred to in Section 2(1) – on the basis of the difference of the net sales revenue originating from the services performed in 2014 under any agreement concluded between an advertising agency and a customer on publishing advertisements in the framework of the taxpayer's media content services; the consideration payable to the taxpayer by the advertising agency in connection with such transaction in 2014; and the amount calculated on a *pro rata* basis in accordance with Section 5 and in consideration of Section 10 for the calendar days of the period from the entry into force of this Act.

(2) The amount of tax advance for 2014 shall be equal to the taxpayer's 2013 net sales revenue originating from its activities under Section 2, its direct costs related to publishing advertisements for own use, and – in case of an activity referred to in Section 2(1) – the difference of the net sales revenue originating from the services performed in 2013 under any agreement concluded between an advertising agency and a customer on publishing advertisements in the framework of the taxpayer's media content services and the consideration payable to the taxpayer by the advertising agency in connection with such transaction in 2013, and the amount calculated on a *pro rata* basis in accordance

with Section 5 and in consideration of Section 10 for the calendar days of the period from the entry into force of this Act.

(3) Contrary to the provisions of Section 7(2), taxpayers shall establish and declare their tax advance for 2014 until 20 August 2014, and shall pay it in two equal instalments, by 20 August 2014 and 20 November 2014.

(4) For taxpayers commencing their activity referred to in Section 2 in 2014 and for taxpayers applying a business year different from the calendar year and not having their last business year closed with a statement by 20 August 2014, the 2014 tax advance shall be equal to the part of the prospective amount for tax year 2014 or the business year not closed with a statement as calculated on a *pro rata* basis for the calendar days of the period from the entry into force of this Act.

(5) For taxpayers applying a business year different from the calendar year and incorporated before 1 January 2015, the tax amount for the period of their business year commencing in 2014, i.e. for the period from 1 January 2015 until the last day of their relevant business year (hereinafter referred to as 'Interim Tax Year'), shall be equal to the amount calculated on the basis of their tax base referred to in Section 4(1) realized in the Interim Tax Year in accordance with the provisions of Sections 5(1) and 5(3) hereof.

(6) The tax advance for the Interim Tax Year shall be equal to the amount calculated in accordance with Sections 5(1) and 5(3) hereof on the basis of the 2014 net sales revenue of the taxpayer referred to in subsection (5) originating from its activities under Section 2, its direct costs related to publishing advertisements for own use, and – in case of an activity referred to in Section 2(1) – the difference of the net sales revenue originating from the services performed in 2014 under any agreement concluded between an advertising agency and a customer on publishing advertisements in the framework of the taxpayer's media content services and the consideration payable to the taxpayer by the advertising agency in connection with such transaction in 2014.

(7) By derogation from the provisions of Section 7(2), taxpayers referred to in subsection (5) shall establish and declare their tax advance for the Interim Tax Year until 15 January 2015, and shall pay it in two equal instalments, until 15 January 2015 and the last day of the Interim Tax Year.

(8) Subsections (5)–(7) shall not apply to taxpayers which were incorporated between 15 August 2014 and 31 December 2014 and apply a business year different from the calendar year since the date of its incorporation.

Section 10

Taxpayers may decrease their tax base, to the extent of such amount, for the tax year commencing in 2014 by 50% of the deferred losses specified in Section 17(1) of Act LXXXI of 1996 on Corporate Tax and Dividend Tax or in subsection (7) of Section 49/B of the Accounting Act, provided that the taxpayer's pre-tax profit or loss for the business year commencing in 2013 is zero or a negative amount.