

Act CIV of 2010

on Freedom of the Press and on the Basic Rules Relating to Media Content

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:

TITLE I

DEFINITIONS

Section 1

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.

2. 'Media service provider' shall mean the natural or legal person, or unincorporated business association 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. '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.

6. '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 or unincorporated business association, 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. '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, or unincorporated business association 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. '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. '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 2

(1) This Act shall apply to all media services provided by media content providers established in Hungary.

(1a) This Act – except for Section 13, Section 14 (1), Section 19 (1), (2) and (4), the second sentence of Section 20 (8) and Section 20 (9) – shall apply also to the press products published by media content providers established in the territory of 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:

a) 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) 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) 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) 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) 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) 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) 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 3

(1) 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) 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”.

TITLE III

FREEDOM OF THE PRESS

Section 4

(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) 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 moral rights or result in personal injury under any circumstances.

Section 5

(1) 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 6

(1) In accordance with the relevant statutory provisions, the media content provider and any person employed by or engaged, in any other legal relationship intended for the performance of work, with the media content provider shall have the right in judicial or administrative proceedings to keep confidential the identity of the person supplying them with information regarding the media content provision activities (hereinafter: source of information), and to refuse to hand over any document, paper, object or data medium that could potentially reveal the identity of the source of information.

(2) In exceptionally justified cases defined by an act, courts may – in the interest of investigating criminal acts – order the media content provider and any person employed by or engaged, in any other legal relationship intended for the performance of work, with the media content provider to reveal the identity of the source of information or to hand over a document, paper, object or data medium that could potentially reveal the identity of the source of information.

Section 7

(1) 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, and unincorporated business associations 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.

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 10

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 11

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) 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 13

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 factual, timely, objective and 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 14

(1) The media service provider shall respect human dignity in the media content that it publishes.

(2) No self-indulgent and detrimental coverage of persons in humiliating or defenceless situations is allowed in the media content.

Section 15

(1) It is prohibited to misuse the approval granted to the media content provider for the publication of statements intended for public disclosure or for the appearance in the media content.

(2) The media content provider shall, on request of the person who made the statement or appears in the media content, present the statement intended for public disclosure to that person before publication, and may not publish it if the person concerned refuses to grant approval for publication because the media content provider has modified or distorted it materially and the modification is detrimental to the person who made the statement or appears in the media content. The relevant rules of civil and criminal law shall apply to cases where material detrimental to reputation or honour is published despite the withdrawal of approval.

(3) In cases not covered by Subsection (2), the approval for the publication of the statement or the appearance may not be withdrawn, if

a) the statement was made in connection with a public event at a local, national or European level;

b) the statement concerns an event that bears relevance to the citizens of Hungary and the members of the Hungarian nation, or

c) the statement was made by a person holding public official, a person performing public duties or a person publicly involved in politics, in relation to the delivery of the person's public mission.

(4) Media content providers shall not enter into agreement with persons appearing in media content which limits within the scope of the agreement the enforceability of the right of the person appearing in media content to reputation, honour or privacy, or the right to withdraw the statement or appearance pursuant to Subsections (1) and (2) Such contractual provisions shall be null and void.

Section 16

Media content shall not violate the constitutional order.

Section 17

(1) Media content may not contain facilities for inciting hatred against peoples, nations, national, ethnic, linguistic and other minorities, or any majority, church or religious groups.

(2) Media content may not be aimed for the disassociation of peoples, nations, national, ethnic, linguistic and other minorities, or any majority, church or religious groups.

Section 18

(...)

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) The presentation of minors in media content in a way that would gravely endanger their mental or physical development corresponding to their age shall be prohibited.

(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.

(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) 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) 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) 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 22

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TITLE IX

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/A.

Sections 1-9 and Sections 12-21 of this Act shall be considered an implementing act pursuant to Article IX(3) of the Fundamental Law.

TITLE X

SHORT (ABBREVIATED) NAME OF THE ACT

Section 24.

This Act shall be referred to in other legislation as the “Press Act”.

TITLE XI

COMPLIANCE WITH THE ACQUIS

Section 25.

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;

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.

END

Act CLXXXV of 2010

on Media Services and on the Mass Media

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:

PART I

GENERAL PROVISIONS

CHAPTER I

SCOPE

Section 1

(1) 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:

a) 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) 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) 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) 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) the media content provider has its head office in the territory of Hungary but editorial decisions are taken in another country, or vice versa, and it first began its activity in the territory of Hungary, provided that it maintains a stable and effective link with the Hungarian economy.

(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) 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) 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) 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) 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) 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) 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.

Chapter II

FUNDAMENTAL PRINCIPLES

Section 3

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 5

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

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) 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) 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) 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.

(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) 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) 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 audio visual 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 audio visual 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.

(6) 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) 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, anchor man, 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 13

Warning on Offensiveness

Section 14

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 defence and air forces of the Hungarian Army, Parliament, the Defence Council, the President of the Republic and the Government, as well as the persons and organizations defined by law may order the media service provider to the extent 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 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 audio visual media service provider may not exercise exclusive broadcasting rights so as to deprive a substantial proportion (more than twenty per cent) of the domestic audience having access to the audio visual media services from the possibility of viewing events, by live coverage or deferred coverage, considered to be of major importance for society, through an audio visual media service that is accessible without the payment of a subscription fee.

(2) The Media Council shall designate - for the purposes of the audio visual media service providers referred to in Subsection (1) - the events of considered to be of major importance for society in an official resolution subsequent to a public hearing. In this resolution the Media Council shall also establish whether the events considered to be of major importance for society should be broadcast live or by deferred coverage. The resolution shall be adopted taking into consideration that the events which it considers to be of major importance are of high interests to the public, and that the events should be a world- or Europe-wide event, or one with Hungarian significance, which, save for events exclusively of Hungarian significance, are broadcast in most European countries.

(3) The Media Council shall inform the audio visual media service providers on the opening of the official proceedings referred to in Subsection (2) 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. In these proceedings only clients participating in the procedure shall be entitled to exercise client rights.

(4) The Media Council shall deliver its official resolution referred to in Subsection (2) by way of public notice.

(5) The Media Council may amend its official resolution under Subsection (2) in accordance with the discretionary criteria defined in Subsection (2). The provisions of Subsection (4) shall apply to the delivery of the amended resolution.

(6) In the course of the judicial review of the decisions defined under Subsections (2) and (5), the filing of the statement of claim shall have no suspensory effect on the enforcement of the resolution and the court may not suspend the enforcement of the official resolution contested. The resolution shall be executable with immediate effect, irrespective of the submission of a claim.

(7) Subsection (1) of this Section and Subsection (1) of Section 18 shall not apply to the delivery of the first resolution adopted under Subsection (2) and the notification of its subsequent amendment.

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 audio visual 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 audio visual 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) If exercising exclusive broadcasting rights would deprive at least twenty per cent of the domestic audience from following the events specified in Subsection (2) of Section 16 via an audio visual media service, the audio visual 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 audio visual media service provider (hereinafter referred to as "contracting partner"), who provides services accessible by at least eighty per cent 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 audio visual 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 audio visual 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 per cent 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 non-resident audio visual 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.

(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) Any linear audio visual 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 published by the Media Council or designated as such in any other Member State and broadcast under exclusive broadcasting rights by an audio visual 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 audio visual media service provider established in the same Member State where the audio visual 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 audio visual 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 audio visual 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 per cent 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 audio visual 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 audio visual media service provider intends to broadcast the short news report in an on-demand audio visual 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 audio visual media services.

Program Quotas

Section 20

(1) The media service provider

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

b) shall allocate at least ten per cent of its annual total transmission time of linear audio visual media services to broadcasting such European works, and at least eight per cent of its transmission time to broadcasting such Hungarian works that were ordered by it from an independent production company, or were purchased from an independent production company as works produced not more than 5 years earlier.

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

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

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

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

(c) over one-quarter of its annual transmission time to European works produced not more than 5 years earlier which were ordered by it from an independent production company or which were purchased from an independent production company.

(4) The obligation stipulated under Subsection (1)-(2) concerning the broadcasting of Hungarian works shall exclusively apply for media services targeted at the territory of Hungary.

Section 21

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

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

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.

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

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

(5) The per centage of European works under Paragraph a) Subsection (1) of Section 20, the per centage requirements under Paragraph a) Subsection (3) of Section 20 and Subsection (1) of Section 21, as well as the per centage 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) Media service providers providing more than one media service shall attain the proportions defined in Sections 20-21 as an average of the total transmission time of all of their media services, with the proviso that the proportion of Hungarian musical works shall be at least twenty per cent of the transmission time for each media service in relation to the performance of the obligation set forth in Section 21 (1). This provision can be applied only for those media services concerning which the media service provider was not granted an exemption as per Section 22 (2)-(3), specified under the public contract.

(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) 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;
- 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 audio visual 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 audio visual 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 audio visual 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 29

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;

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) 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) 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) 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 audio visual media services;
- b) shall take place by acoustic means in the case of radio media services.

(3) During election campaign periods political advertisements may only be published in accordance with the provisions of acts on the election of Members of Parliament, Members of the European Parliament, representatives of municipality and county governments, mayors and the election of nationality self-governments. Outside election campaign periods, political advertisements may only be published in connection with referendums already ordered. The media service provider shall not be responsible for the content of 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.

(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 audio visual media service;
- b) by optical and acoustic means in the case of teleshopping windows broadcast in an audio visual 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) 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 audio visual 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.

(6) Virtual or split screen advertisements cannot be inserted in programs broadcast in linear audio visual 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 audio visual 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 audio visual 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) 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) 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

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) The public media service provider shall be liable to allocate two minutes from the total transmission time of its media service that has the highest audience share on the yearly average for the broadcasting of public service announcements from every two-hour period (within a given clock hour). This provision shall not apply to the period within a given clock hour when a program longer than two hours, which by its nature may not be interrupted, is broadcast. In absence of a request for the publication of a public service announcement, this period may also be used for other programs. The public media service provider shall be required to broadcast the public service announcement under Subsection (6) of Section 32 by interrupting its program if justified on the basis of the decision of the disaster relief agency and if such decision was communicated to the media service provider in due time. The obligation laid down in this Subsection shall also apply to providers of community media services.

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) Linear audio visual 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 per cent 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 People with Impaired Hearing

Section 39

(1) Media service providers of audio visual media services shall make efforts to gradually make their programs accessible also to people with impaired hearing.

(2) Public and – in respect of their media services with the highest annual average audience share – linear media service providers with significant market power shall be obliged to ensure that

a) all public service announcements, political advertisements, news programs (including traffic news, sports news and weather forecasts) and political programs, as well as programs about people with disabilities or equal opportunities, are also accessible with Hungarian subtitles – for example through teletext – or with sign language;

b) cinematographic works, games and programs serving public service objectives defined under Section 83, during the transmission time between 06.00 and 24.00, are also accessible with Hungarian subtitles – for example through teletext – or with sign language,

ba) for at least six hours on each calendar day in 2012;

bb) for at least eight hours on each calendar day in 2013;

bc) for at least ten hours on each calendar day in 2014.

(3) The obligation stipulated under Subsection (2) b) must be performed by the media service providers specified therein throughout the entire duration of their transmission time from 2015.

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

(5) It shall be indicated in media services prior to subtitled programs that the respective program is also available in that form through the teletext service connected to the media service. The subtitled version of the text of each program shall be accurate and synchronized to the events displayed on the screen.

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

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) 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.

(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) Any natural or legal person or unincorporated organization 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 audio visual media services;
- b) linear radio media services;
- c) audio visual 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 audio visual 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.

(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.

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) the notifier’s valid charter document and, furthermore, notarized specimen signature, or a specimen signature countersigned by an attorney-at-law if the notifier is not a natural person;
- c) basic details of the planned media service, such as:
 - ca) type (radio or audio visual),
 - 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,
 - 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) 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 audio visual 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) 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.

(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) 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;
- 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 43

(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 per cent 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.

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

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

(4) Default in fee payment shall be 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) 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 audio visual),

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

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

(8) In the event of any violation of the provisions on registration on the media service provider'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.

Notification of Press Products

Section 46

(1) Registration of a press product may be initiated by its publisher. 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) The notification for the registration of a press product shall contain:

a) the notifier's following particulars:

aa) name,

ab) 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, and company registration number;

b) title of the notified press product;

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

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

(5) The Office shall withdraw registration if:

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

b) 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.

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

a) 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) 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, or

d) 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.

(7) 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.

(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) 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)

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.

Chapter III

Rights to Provide Linear Media Service by way of Tender

General Provisions

Section 48

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

(2) 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 Act on the General Rules of Administrative Proceedings (hereinafter referred to as “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) The Media Council shall be entitled to authorize, for a specific time period not exceeding three years, without a tender procedure, an undertaking to provide media services for the sake of carrying out public duties. This media service provision right shall be granted by the Media Council, in its regulatory decision, to the first applicant submitting a request for such right, based on a call for applications announced by the Media Council, provided that such media service provider meets the conditions required to perform the public duties. For the purposes of this Paragraph, the following shall be deemed as public duties:

a) media service provision in the event of and in relation to a state of emergency, a natural disaster affecting a significant territory of the country, or an industrial disaster, or

b) serving a community’s special educational, cultural or information needs, or needs associated with a specific event affecting the given community.

(5) 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 audio visual media services, which may be renewed once upon expiration for a maximum period of five years without a tender procedure, upon the media service provider’s request, with the exception that audio visual media service agreements shall expire on the date set out in Subsection (1) of Section 38 of Act LXXIV of 2007 Laying Down Provisions for Broadcasting and for Transition to Digital Technology (hereinafter referred to as “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.

(6)

(7) The right may not be renewed, if

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

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

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

(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 be 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

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) 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) 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.

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 54

Tenderers wishing to submit a tender shall be charged a tender fee. The tender fee shall be five per cent of the basic media service license fee published. Eighty per cent 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) business entities that have no outstanding debt owed to the Media Council.

(2) 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).

(3) Only those entities that comply with the provisions on conflict of interests defined under the Act shall be eligible to participate in the tender procedure. A conflict of interest shall hold, regarding the tenderer in the tender procedure announced in terms of the national analogue media service provision right, if the given tenderer or an undertaking having a qualifying holding in the tenderer is declared by the Media Council as the winner of another ongoing tender procedure. A conflict of interest shall hold, regarding the tenderer in the tender procedure announced in terms of the regional or local analogue media service provision right, if the given tenderer or the undertaking having a qualifying holding in the tenderer is declared by the Media Council as the winner of another ongoing tender

procedure announced in terms of the reception area of the local or regional media service, except if the extent of overlapping between the reception areas of the two media service provision rights does not exceed twenty per cent.

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

(5) 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) 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) 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) the planned ancillary media services,
 - 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,
 - dk) 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) daily, weekly, monthly minimum transmission time intended for broadcasting news programs,
 - dm) 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) a bank certificate confirming that the amount required to cover the operating costs of the planned media service for at least the first three months of operation, excluding advertising revenue, is available for the tenderer on a separate current account,

h) the tenderer's 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) the tender is not submitted by the deadline, or at the place, in the number of copies or in the form or mode defined in the tender notice;

c) the tender fee was not paid on time;

d) the tender does not comply with the formal requirements defined in the tender notice;

e) the tender does not, or does not adequately contain the data listed in Section 56.

(3) Remedying deficiencies pertaining to formal validity requirements 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 per cent of the tender fee shall be refunded for tenders declared formally invalid.

Tender Registration and Formally Invalid Tenders

Section 58

(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) 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 Ítéltábla (Budapest High Court of Appeal). The court shall adopt a decision in non-contentious proceeding, upon hearing the parties if necessary, within fifteen days. The ruling of the Fővárosi Ítéltábla (Budapest High Court of Appeal) 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 per cent of the tender fee shall be refunded in the case of substantive invalidity.

Evaluation of Tenders

Section 60

(1) The tenders are evaluated on the basis of the principles and criteria defined in the invitation to tender. Evaluation criteria must be based on quantitative or other assessable factors, and must be in line with the subject of the tender or the material conditions of the public contract.

(2) The Media Council may, in connection with a tender component related to the evaluation criteria, determine, in the tender notice, a requirement compared to which an offer that is less favourable 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) 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) 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) 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.

(5) Judicial review of the Media Council's resolution under Subsection (1) may be requested from the Fővárosi Ítéltábla (Budapest High Court of Appeal) within fifteen days of the time of delivery of the resolution alleging infringement, however, following the peremptory time limit of thirty days from the date of the resolution, the resolution may not be contested even it was not delivered - apart from the known clients - to other third parties entitled to redress, or even if such parties did not gain knowledge thereof.

(6) The Media Council shall forward the statement of claim, together with the documents and representations of the case, to the Budapest Court of Appeal within fifteen days of receipt thereof. The Budapest Court of Appeal shall assess the statement of claim for a judicial review in a board comprised of three members, within thirty days from the submission of the statement of claim by the Media Council to the Budapest Court of Appeal. No appeal may be lodged against the decision of the Budapest Court of Appeal, and no retrial or review can be requested.

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

(8) Eighty per cent 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) If a procedure of the Fővárosi Ítéltábla (Budapest High Court of Appeal) has been initiated according to Subsection (5) of Section 62, the public contract may not be concluded before the final decision of the Fővárosi Ítéltábla. The duration of the judicial review by the Fővárosi Ítéltábla 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.

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

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

(13) The original applicant 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) 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) either of the media service providers has overdue media service license fees owed to the Media Council;
- c) 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 per cent;
- e) as a result of networking, the media service provider would significantly deviate from its original commitment made in the tender.

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

(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 kilometres 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) 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) for which another party has already acquired the right to providing media services, however, the right-holder fails to commence the media service within sixty days from the termination of temporary media services; or
- 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) 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) the media service provider's declaration on the starting date of the media service in the case of applications under Paragraph b) of Subsection (1);
- 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).

(3) 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) If several applications are submitted for the same media service facility, the Media Council shall evaluate such applications in the order of receipt. 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 e) 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) 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 audio visual 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 audio visual media services.

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

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

(13) 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 audio visual media services - on or before the day of conclusion of the contract.

Chapter IV

COMMUNITY MEDIA SERVICES

Section 66

- (1) Linear community media services:
- a) are intended to serve or satisfy the special needs for information of and to provide access to cultural 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 per centage 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 audio visual media services;
 - d) in the case of audio visual media services, operating in line with the requirements of Section 20 pertaining to Hungarian and European program quotas, without applying the exemption opportunity specified under Section 22 (2), excluding any possible exemptions regarding program quotas, as per Section 22 (2), applicable to independent production companies;
 - e) 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) 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) in the case of radio service provision, allocate at least fifty per cent of its weekly transmission time committed to programs presenting musical works to the presentation of Hungarian musical works.
- (5) The recognition of local or regional media services as community media services shall be established through the Media Council's decision, adopted within the framework of the tender procedure started by the Media Council pursuant to this Act regarding the usage of the media service provision rights, on the winner of the media service tender or under the Media Council's procedure initiated specifically for this purpose, based on the Media Council's decision. This procedure may be initiated by the media service provider following the registration of the media service in the register in accordance with the provisions of Section 42. In the course of its procedure, the Media Council shall examine whether the existing or proposed media service and the provisions of its respective media service policy satisfy the criteria laid down under Subsection (1)-(4), and issue a regulatory decision within sixty days. National media services cannot be recognized as community media services.
- (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) 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 audio visual media service with an average annual audience share of at least thirty-five per cent, linear radio media service providers, and linear audio visual and linear radio media service providers with a joint average annual audience share of at least forty per cent, 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) 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.

(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 audio visual 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 audio visual 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 audio visual media service provider and linear radio media service provider with an average annual audience share of at least fifteen per cent, provided that the average annual audience share of at least one media service they provide reaches three per cent.

(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) In order to conduct procedures for the prevention of media market concentration and for identifying SPI media service providers, the Media Council shall analyse 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) the audience share of all linear media services distributed in the territory of Hungary by the media service provider;

b) 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) 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.

(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) The provisions of Section 163 shall also apply to the review of resolutions adopted in proceedings for the prevention of media market concentration and the identification of SPI media service providers, where the client or other parties to the proceedings may request the review of the Media Council's final resolutions - alleging infringement - from the Fővárosi Ítéltábla (Budapest High Court of Appeal) by bringing action against the Media Council's resolution. The Fővárosi Ítéltábla shall adopt a decision within thirty days in litigious proceedings.

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

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

- a) the area of transmission of the two media service providers overlaps up to twenty per cent 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 per cent 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 audio visual 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 audio visual 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) 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 audio visual media services through transmission systems or networks to the general public.

(3) Transmission systems or networks used for the broadcasting of radio and audio visual media services to the public include, in particular, cable television networks, satellite and terrestrial broadcasting (except analogue audio visual 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 audio visual 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) The must carry obligation shall not apply to radio media services in the broadcasting network or transmission system primarily used for the broadcasting of audio visual media services to the public.

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

(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) 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.

(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) The broadcaster shall transmit a total of four linear audio visual 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) 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) Public media service providers shall provide the media services disseminated using transmission as per Subsection (1) free of charge to subscribers.

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

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

Section 75

(1) Broadcasters shall - up to ten per cent 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 audio visual community media services, where this is technically and economically feasible.

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

(3) Over and above the media services falling under the must carry obligation defined 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.

(4) If the transmission system of the media service distributor, as per Subsection (1)-(3), consists of parts serving several areas that can be technically distinguished from each other, the media service distributor shall be subject to the obligations, as per Subsection (1)-(3) mutatis mutandis, in respect of each technically distinguishable area separately. As far as the “must carry” obligation is concerned, technically distinguishable area shall mean the geographical area served by those parts of the transmission system within which no other media service can be installed into or removed from the transmitted complex program signal under economically or technically reasonable conditions, in other words within such an area all users choosing the same program package shall have access to an identical program structure.

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

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

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

For the purposes of Subsection (3), the Media Council may only appoint linear community media services provided by media service providers other than those providing linear community media services under Subsection (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 audio visual media services in addition to those listed under Subsections (1)-(3) in respect of the contractual offer for the provision of audio visual community media services technically and economically feasible.

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

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

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

(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) 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) 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) 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) 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 76

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

- a) none of the agreements, as per Section 75 (1)-(3) and (7), is concluded within thirty days of the offer being made, despite the media service provider's attempts to reconcile with the opposing positions on the merits, or
- b) the media service distributor violates the authorized media service provider's media service distribution right or legitimate interest set forth by law or an agreement.

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

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

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

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

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) 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) providing information on and holding up constitutional rights, the fundamental values of law and order and public policy within a democratic society;

- e) 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) 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;
- 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 subject to two-thirds majority of the Members of Parliament attending. 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.

(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) Parliament shall elect six members to the Board of Trustees by voting for each member individually, subject to a two-thirds majority of the Members of Parliament present.

(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) 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).

(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) After a successful nomination, Parliament shall elect the new member for the Board of Trustees with a two-thirds majority of the Members of Parliament present for the rest of the term of the Board of Trustees members 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.

(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 with a two-third majority of the votes of the Members of Parliament attending.

(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;
- 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) 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 Companies Act and the Accounting Act;
- i) approve the annual plan for financial management of the Public Foundation and establish its balance sheet;
- j) in relation to public media service providers, exercise the powers of the General Meeting pursuant to the Companies Act, 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) The Public Foundation shall exercise the founders' and shareholders' rights defined by the Companies Act 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) 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.

(2) 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 in the Companies Act, 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 per cent of the basic remuneration of state secretaries; members of the Board of Trustees are entitled to forty per cent of the basic remuneration of state secretaries, plus expenses up to maximum fifty per cent 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)

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) 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

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) 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) The Public Service Board's chairperson is entitled to forty per cent of the basic remuneration of state secretaries, and its members are entitled to twenty-five per cent 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

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) The provisions of the Companies Act 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) Public media service providers shall be exempt from the payment of media service license fees.

(5) Public media service providers shall provide at least one radio and at least one audio visual 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 per cent of the population in the 87.5-108.0 MHz frequency band, or by at least ninety per cent of the population in the case of audio visual public media services.

(6) In addition to nation-wide media services, public media service providers shall be allowed to provide local and regional media services as well.

(7) As regards the media service facilities used for certain public media services - including the trans frontier 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) Having regard to public audio visual 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.

Presentation of Nationalities in Public Media Services

Section 99

(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) 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 audio visual media services with subtitling or broadcasting in multiple languages, as it may be necessary.

(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 Archives of Public Media Service Providers

Section 100

(1) All ownership rights and obligations associated with public service media assets shall be exercised by the Fund, with the exceptions set out under Subsection (2).

(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 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 subject to copyright law, acquired by public media service providers 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 use works in the Archive in accordance with the provisions of the Copyright Act and in accordance with the terms and conditions of agreements concluded with the proprietor of the copyright and neighbouring rights.

(6) The Fund shall execute an asset management agreement with public media service providers for the utilization of public service media assets. Under this agreement public media service providers are given the right to use free of charge any public service media asset in their management, including the right of broadcasting to the public within the framework of public media services.

(7) Copyrighted works and other intellectual property in the Archive, falling outside the scope of media assets, shall be used by public media service providers within the framework of the Copyright Act as well as the terms and conditions of agreements concluded with the proprietors of copyrights and neighbouring rights. The Fund may release to public media service providers works classified as public service media assets - for which no special authorization and no payment of any fee is required - for the purposes of broadcasting to the public, as well as copyrighted works and other intellectual property falling outside the scope of public service media assets, but in respect of which the Fund has use rights.

(8) If it cannot be decided whether certain copyrighted works held in the Archive fall within the scope of public service media assets, and if they are disseminated in the public service media, the proprietor of the copyright or neighbouring right proceeding upon the broadcast may prohibit any future use of the works in question. In case of usage that has already occurred, the proprietor affected is entitled to adequate remuneration from the media service provider. In case of dispute, the amount of the remuneration shall be determined by the court.

(9) Any proprietors of copyrights associated with works forming part of public service media assets - other than the Fund - shall also be entitled to adequate remuneration. In case of dispute, the amount of the remuneration shall be determined by the court.

(10) Unless there is an agreement to the contrary or unless otherwise provided for by the asset management agreement referred to in Subsection (6), the provisions of Subsection (3) of Section 30 of Act LXXVI of 1999 on Copyrights shall not apply to the acquisition of any use rights by public media service providers concerning any component of a public service media asset and the free of charge transfer of certain components of public service media assets between public media service providers.

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;

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) publishing reports regularly and objectively on the lives of ethnic Hungarians living outside the borders of Hungary, and providing news service to them;
- g) 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 defence and air forces of the Hungarian Army, Parliament, the Defence Council, the President of the Republic and the Government, as well as the persons and organizations defined by law may order the 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) 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 by the Companies Act 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;
- 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 fulfil 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) 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, 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 Labour 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) During his term in office the executive director and executive employee of a public media service provider may not pursue any gainful activity other than scientific, educational, literary, artistic and other activities under copyright protection 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;
- 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) exercise all the rights, with the exceptions set out in this Act, which are delegated by the Companies Act 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) Otherwise, the provisions of the Companies Act, 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.

(2) 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 Companies Act.

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) 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) 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) 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.

(9) Public media service providers may not have an ownership interest in other media service providers, and may not set up foundations. Economic operators 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) 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)

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

60

(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) 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.

(8) The administrative duties of the Government relating to frequency management for non-civilian purposes shall be attended to by the Közigazgatási Frekvenciagazdálkodási Hatóság (Administrative Authority for Frequency Management) (hereinafter referred to as “KFGH”).

(9) The KFGH forms a part of the Office and functions as a self-regulatory body headed by the director general.

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 analyse 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) 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 for civilian purposes;
- i) provide for regulatory and non-regulatory tasks defined by other legislation.

Section 110/A

(1) The Authority shall establish the principles related to its personnel policy independently, in order to retain the specialist personnel with the special expertise and competences required for the performance of its duties as detailed under Sections 109-110.

(2) The Director General and Deputy Director General of the Authority, as well as the employees of the Authority, shall perform their activities within the framework of a public service legal relationship, and their legal

relationship shall be governed by the provisions of the Act on Civil Servants applicable to civil servants, subject to the differences specified under this Act.

(3) The President of the Authority shall determine the system of the different posts of employment required for performance of the tasks of the Authority, the amount of the resources required for the performance of the tasks, and define in the Organizational and Operational Rules of the Authority those employment positions not falling under Subsection (2), where the employees perform their tasks under an employment relationship.

(4) The President of the Authority, within his/her own powers which cannot be transferred, shall decide upon the principles of the remuneration policy of the Authority, the fringe benefits, the basic salary of its civil servants, and any deviations thereof.

(5) The President of the Authority can determine a special personal remuneration to civil servants who are in an employment positions requiring special, unique expertise or to civil servants filling more than one senior position. Personal remuneration can be granted up to the maximum of twenty per cent of the active employee headcount of the Authority and can be withdrawn without the need for any explanations. The President of the Authority shall determine the rules restricting the employment of the persons in the above-mentioned posts of employment, which may be applied upon termination of the legal relationship of these persons, and these rules shall be specified in detail in the employment document.

(6) The President of the Authority shall, at his/her own discretion, determine in the Public Service Policy of the Authority the detailed rules related to the performance assessment system and the related remuneration, recruitment and selection policies, as well as the planning and execution of the in-service training, courses, and individual development.

(7) The Authority, being an autonomous regulatory body, shall not be subject to the data provision obligation related to public administration personnel activities.

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) if elected as President of the Media Council, convene and chair the meetings of the Media Council;
- b) if elected as President of the Media Council, arrange for the meetings of the Media Council to be prepared;
- c) 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) appointment, dismissal and removal of the director of KFGH on a recommendation by the executive director.
- (3) The President is appointed by the Prime Minister for a term of nine years.

(4) 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 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.

(5) Following the expiry of the term referred to in Subsection (3), the President may be re-elected.

(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.

Section 112

(1) The President is entitled to appoint two vice presidents for an indefinite term. The provisions of Subsection (4) of Section 111 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) The President's mandate shall be terminated if

- a) his/her mandate expires;
- b) he/she resigns;
- c) he/she dies;
- d) he/she is dismissed by the Prime Minister in accordance with Paragraph (2);
- e) if he/she is not elected as President of the Media Council by the Parliament within 30 days from his/her appointment, or, if such appointment takes place outside the parliamentary session, within 15 days from the starting date of the forthcoming parliamentary session.

(2) The Prime Minister shall dismiss the President if:

- 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 fulfil his vested responsibilities for more than six consecutive months for reasons within his control.

(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) The Vice-President's mandate shall be terminated, if

- a) he/she resigns;
- b) he/she dies;
- c) he/she is dismissed by the President pursuant to Subsection (5);
- d) he/she is removed by the President pursuant to Subsection (6);
- e) based on the mutual agreement of 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) 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) 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

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) The KFGH is headed by the director appointed by the President for an indefinite period on a recommendation by the director general, who shall also exercise employer's rights in respect of the director, except for his appointment, dismissal and removal. The provisions of Section 117 pertaining to the deputy director shall also apply to the conditions of appointment, dismissal and recalling of the KFGH's director.

(5) The KFGH shall have jurisdiction in matters of non-civilian frequency management as defined in specific other legislation.

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) The provisions of Subsection (4) of Section 111 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) The mandate of the Director General shall be terminated, if

a) he/she resigns;

b) he/she dies;

c) he/she is dismissed by the President pursuant to Subsection (6);

d) he/she is removed by the President pursuant to Subsection (7);

e) based on the mutual agreement of the President and the Director General.

(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 months' remuneration.

(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) 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, Members of Parliament 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 Hatóság

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:

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.

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 per cent of the basic remuneration of state secretaries, the deputy chairperson of the NHIT is entitled to sixty per cent of the basic remuneration of state secretaries, whereas NHIT members are entitled to fifty-five per cent 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) for ensuring harmony between Government and civil 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) 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;

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) 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) 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) 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) 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) 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) The NHIT shall establish its own rules of operation itself.

(9) 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) The Állami Számvevőszék (State Audit Office) shall oversee the financial management of the NHIT. The NHIT shall report once a year to the relevant Parliamentary committee 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.

(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) The President and the four members of the Media Council shall be elected by the Parliament – with the two-thirds majority of the votes of Members of Parliament present – for a period of nine years by simultaneous voting by list, except if the mandate of the President is terminated for any of the reasons specified under Section 113 (1) b)-e), or if the mandate of the member is terminated for any of the reasons specified under Section 129 (1) b)-f). In the latter case, the Parliament shall vote separately regarding the president or member candidate.

(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 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) 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) The Authority's President appointed by the Prime Minister 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.

(3) If the mandate of the President of the Authority is terminated pursuant to Section 113 (1) b)-d), his/her mandate as President of the Media Council shall be terminated simultaneously as well. The provisions of Section 216 (8) shall be applied in the event that the mandate of the President of the Authority expires. The new President of the Authority appointed by the Prime Minister shall become a candidate for the President of the Media Council by virtue and from the moment of appointment. His/her election shall be decided upon by two-thirds of the Members of Parliament present, with a vote by list or with a separate vote in line with Section 124 (1).

(4)

(5) The chairperson and members of the Media Council can be re-elected, if their mandate was terminated for reasons other than conflict of interest, or by way of dismissal or exclusion.

(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) The duration of the mandate of the President of the Media Council corresponds to the duration of the mandate of the President of the Authority, except for the case specified under Section 216 (8).

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.

(2) 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) 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 with a two-third majority of votes of the Members of Parliament attending.

(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 per cent 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) If the President of the Media Council is unable to attend a meeting of the Media Council due to being detained elsewhere or if the Media Council does not have an elected President, the powers and responsibilities of the President and representation of the Media Council shall be performed by the members of the Media Council in turn, in the way defined in the procedural rules. The member performing the tasks of the President may participate in voting.

Responsibilities of the Media Council

Section 132

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;
- 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 audio visual 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 audio visual policy.

Financial Management of the Authority and the Media Council

Section 134

(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 per cent 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.

(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 per centage 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) 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). 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.

(6) 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 per cent 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)

(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) 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)

Section 136

(1) The Fund is a trust and monetary fund appropriated to provide support for the structural transformation of public media services, the Közszolgálati Közalapítvány (Public Service Foundation), community media services and public media service providers, 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 the Archive and other assets, as well as promoting and implementing other related activities.

(2) The assets of the Fund may be used only for the purposes defined by law.

(3) 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 audio visual media services, target subsidies from the central government budget, proceeds from the utilization 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 audio visual 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 audio visual 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) 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) 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 audio visual media services shall allocate two and a half per cent 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.

(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) As regards the assets transferred to the Hungarian State under Parliamentary Resolution 109/2010 (X. 28.), accrued ownership rights and obligations (asset management rights) shall be exercised by the Fund. The Act on State Property shall not apply to the exercise of ownership rights and obligations by the Fund relating to assets that were transferred to the Fund, and to the assets the Fund has obtained otherwise, nor to the utilization, encumbrance and management of these assets. The detailed provisions for the management of assets managed by or transferred to the Fund shall be laid down by the Media Council.

(18) The Fund shall enjoy individual duty exemption and shall not be liable to pay corporate taxes or local taxes.

(1) 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.

(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.

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 III

THE MEDIA AND COMMUNICATIONS COMMISSIONER

General Rules

Section 139

(1) A Media and Communications Commissioner (hereinafter: Commissioner) shall operate as part of the Authority. The Commissioner shall contribute to the promotion of the equitable interests of users, subscribers, viewers, listeners, consumers of electronic communications services or media services, as well as the readers of press products, regarding electronic communications, media services and press products. The Commissioner shall act in matters vested with him/her under this Act.

(2) The Commissioner shall be appointed and dismissed by the President, who shall also exercise the employer’s powers over him/her. The Commissioner is a civil servant in the position of a Head of Division. In performing his/her duties specified in this Chapter, the Commissioner may not be instructed.

(3) The provisions of Section 111 (4) shall apply mutatis mutandis to the Commissioner.

(4) The Commissioner is assisted in performing his/her duties by the Office of the Media and Communications

Commissioner (hereinafter: Commissioner's Office) headed by the Commissioner; the civil servants working in the Commissioner's Office shall be appointed and dismissed by the President; other employer's powers over these civil servants shall be exercised by the Commissioner.

(5) The operation, organisational structure, internal and external relations of the Commissioner's Office is defined in the Organizational and Operational Rules of the Authority and the rules of procedure of the Commissioner's Office. The rules of procedure of the Commissioner's Office shall be prepared by the Commissioner and approved by the President.

(6) The budget of the Commissioner's Office shall be established separately within the budget of the Authority.

Section 140

(1) Upon detecting a conduct related to the provision of a media service, press product or electronic communications service, that does not constitute a breach of a regulation on media administration or electronic communications and falls outside the scope of competence of the Media Council, the President or the Office, but is or may be detrimental to the equitable interests of the users, subscribers, consumers, viewers, readers and listeners of media services, press products and electronic communications services,

a) the person affected by the harm to interests or exposed to the direct danger of such harm to interests (hereinafter referred to collectively in this Chapter as 'harm to interest'); or

b) the association engaged in the protection of consumer, subscriber, user, or viewer, listener and reader rights shall have the right to resort to the Commissioner's Office with its complaint.

(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 all the data required under Section 141 (5) shall be transferred to the Commissioner by the President, the Office or the Media Council within eight days, and the Commissioner shall adjudge such requests and notifications as complaints received by him/her. This fact, as well as the fact of the transfer shall be communicated to the requesting party and the complainant concurrently with the transfer.

(3) The Commissioner shall proceed according to Section 142 in the case of complaints regarding electronic communications services, and according to Section 142/A in the case of complaints regarding media services and press products.

Common Provisions Pertaining to the Proceedings of the Commissioner

Section 141

(1) The proceedings of the Commissioner shall not be deemed to be an administrative procedure, the Commissioner shall not have the right to exercise administrative authority. Complaints as defined in Section 140 (1) shall not be deemed to be administrative cases. The Commissioner shall only use administrative instruments in the case of complaints regarding electronic communications services, in the manner specified in Section 142.

(2) The Commissioner may only launch proceedings in response to a complaint. The Commissioner shall examine the complaint and if it is obviously unfounded or if the harm to interests therein described is of minor importance, or if the case falls outside the Commissioner's scope of competence, he/she shall notify the complainant accordingly within fifteen days. In his/her notification, the Commissioner shall – to the necessary extent – inform the complainant of his/her rights and obligations under the regulation on electronic communications and/or media administration or under the subscription contract, as well as the course of action and means of legal remedy available for such complainant.

(3) If, during the consultation procedure described in Article 142 (4) or 142/A (1), the Commissioner establishes that the complaint is unfounded or the harm to interests therein is of minor importance or the case falls outside the Commissioner's scope of competence, he/she shall terminate the procedure and shall notify the complainant and the

participants of the consultation procedure thereof accordingly within fifteen days. In his/her notification, the Commissioner shall, as necessary, inform the complainant of his/her rights and obligations under the regulation on electronic communications or media administration or under the subscription contract, as well as the procedures and means of legal remedy available for such complainant.

(4) The complainant shall have the right to request confidentiality concerning his/her personal identification data and address. In such cases, the Commissioner, with a view to ensuring the right of inspection of documents, shall make an extract of the complaint in a manner which prevents the identity of the complainant from being established. The Commissioner shall only release this extract to third parties. For the purposes of investigating the complaint, the Commissioner shall control the personal data of the complainant revealed to the Commissioner in the course of the procedure and directly related to the complaint, until the completion of the investigation procedure. This fact shall be communicated to the complainant.

(5) The complaint shall contain the name and the address or mailing address of the complainant, the particulars of the harm to interests that call for action by the Commissioner, and the action or conduct on the base of which the harm to interests is plausible, as well as the circumstances that suggest or substantiate that the other conditions laid down in Section 140 (1) are fulfilled. In case of a defective complaint, the Commissioner may at any stage of the procedure call on the complainant to remedy the deficiencies within a specific deadline. If the complainant, despite the Commissioner's call to do so, fails to remedy or improperly remedies deficiencies, the application may not be deemed as a complaint, and therefore the Commissioner shall not proceed, and; if the proceeding has already started, he/she shall terminate it, and shall notify the complainant and the participants of the consultation procedure thereof within fifteen days. In his/her notification, the Commissioner shall, as necessary, inform the complainant of his/her rights and obligations under the regulation on electronic communications or media administration or under the subscription contract, as well as the procedures and means of legal remedy available for such complainant.

The Proceedings of the Commissioner in Case of Complaints Regarding Electronic Communications Services

Section 142

(1) In order to investigate the harm to interests as defined in Section 140 (1) reported in a complaint, the Commissioner shall have the right to request data related to the harm to interests from any electronic communications service provider, and may suitably apply the measures defined in the Act on the General Rules of Administrative Proceedings and Services regarding administrative inspections and the measures defined in this Act regarding establishing the facts of the case. The electronic communications service provider concerned shall provide the Commissioner with the requested data, information, guidance, document, paper (hereinafter referred to collectively in this subtitle as 'data') within fifteen days even if the data concerned qualify as business secrets. The Commissioner shall keep business secrets revealed to him/her as confidential and handle them at the request of the data supplier as a document with restricted access.

(2) The Commissioner shall complete his/her proceedings under this Section within the deadline set forth in Section 151. The following periods shall not be taken into account with regard to the deadline:

a) the period from the notice calling upon the complainant to remedy the deficiencies of the complaint pursuant to Section 141 (5) until the remedying of the deficiencies,

b) the period from the request of data pursuant to Subsection (1) until the data is supplied,

c) the duration of the procedure as defined in Subsection (3),

d) the period from the request to provide a statement pursuant to Subsection (5) until the statement is provided.

(3) In the event that the electronic communications service provider concerned fails to provide the Commissioner with the requested data within the specified deadline, the Commissioner shall resort to the Office. The Office shall be obliged to initiate an oral or written consultation procedure with the electronic communications service provider concerning the necessity of the provision of the data and the scope of the data to be provided. After this consultation, the Office shall oblige the electronic communications service provider concerned to provide the data related to the

harm to interests as specified by the Commissioner in accordance with Subsection (1) and the result of the consultation procedure. An appropriate deadline of at least fifteen days shall be set for the provision of data. Section 155 (5)-(7) shall be applied mutatis mutandis. Electronic communications service providers concerned may request the review of the ruling through an appeal with suspensory effect at the Budapest-Capital Regional Court. The Budapest-Capital Regional Court shall decide on the case in an out-of-court proceeding within eight days, and further appeal against its ruling shall not be available. In the event that the electronic communications service provider fails to provide the Office with the requested data, or it provides incomplete or false data within the specified deadline, the Office may apply the sanctions defined in Section 156. The Office shall transmit the received data to the Commissioner.

(4) In the course of his/her proceedings, the Commissioner shall conduct oral or written consultations with the electronic communications service provider regarding the harm to interests (hereinafter for the purposes of this Section: 'consultation procedure'). If the Commissioner deems it appropriate and the complainant requests it, the Commissioner shall involve the complainant in the consultation procedure, and, if the case concerns a large number of consumers, the Commissioner may involve the representative of the association engaged in the protection of consumer interests.

(5) In the consultation procedure the Commissioner shall send the description of the harm to interests to the electronic communications service provider calling on it to submit comments on it within a deadline of at least 15 days, specified by the Commissioner.

(6) In justified cases, the Commissioner, on the basis of the written comments of the electronic communications service provider, shall invite the representative of the electronic communications service provider concerned, and, if needed, the complainant and the representative of the association engaged in the protection of consumer interests to attend a personal consultation.

(7) In the event that the Commissioner and the electronic communications service provider fail to reach an agreement to remedy the harm to interests, the Commissioner shall record the results of the consultation procedure in a report and proceed as defined in Subsection (9). If the consultation procedure is successful, the Commissioner and the electronic communications service provider concerned shall record the results in an agreement, which the Commissioner shall send to the complainant and publish on his/her website. The parties shall provide for the manner of remedying the harm to interests in the agreement.

(8) The agreement is a concordant and voluntary legal statement of the parties, concluded between the Commissioner and the electronic communications service provider concerned, whereby the contractual rights shall entitle the users, subscribers and consumers of the electronic communications service concerned. No obligations may be attributed to users, subscribers or consumers under the agreement. The provisions of the agreement shall constitute part of – and amend – the legal relationship of the users, subscribers or consumers concerned established with the electronic communications service provider concerned, whereby the provisions of the agreement will be applicable in individual cases and the users, subscribers or consumers concerned may make a reference to these provisions in individual cases, and the Authority shall have the right to supervise compliance with the provisions of the agreement in the course of an administrative inspection. The extent of cooperation displayed by the electronic communications service provider concluding the agreement as per this Subsection with regard to the effective enforcement of consumer interests shall also be taken into account by the Authority in other administrative cases affecting the electronic communications service provider.

(9) The Commissioner shall draw up a report on successful consultation procedures as needed, and on every consultation procedure without an agreement, and shall send the report to the complainant, the electronic communications service provider concerned and the association representing consumer interests participating in the proceedings. In addition to the particulars of the harm to interests, the Commissioner shall describe in the report the conduct of the electronic communications service provider in detail as to how it handled the harm to interests, and in particular its willingness to cooperate in remedying the harm to interests and enhancing consumer well-being. The Commissioner shall publish his/her report if it affects or may affect a large number of consumers or may issue a recommendation or an information note for the consumers with a view to avoiding further harms to interests. If there is no agreement, the electronic communications service provider concerned shall, within a deadline of at least 15 days set by the Commissioner, inform the Commissioner of the measures taken.

The Proceedings of the Commissioner in Case of Complaints Regarding Media Services and Press Products

Section 142/A

(1) In the course of his/her proceedings, the Commissioner shall conduct oral or written consultations with the professional, interest representing or self-regulatory organizations of media content providers (hereinafter for the purposes of this Section: professional organizations) regarding the harm to interests as defined in Section 140 (1) (hereinafter for the purposes of this Section: 'consultation procedure').

(2) The Commissioner shall only proceed with regard to the complaint,

a) if the complaint relates to an activity causing harm to interests which occurred repeatedly during the activities of the media content provider or which occurred during the activities of several media content providers, and

b) if the harm to interests complained of affects a significant part of viewers, listeners or readers.

(3) The Commissioner shall inform the media content provider about the complaint regarding its activities, and shall ensure that the media content provider can articulate its views in every phase of the consultation procedure.

(4) In the consultation procedure, the Commissioner shall send the description of the harm to interests affecting a significant part of the viewers, listeners or readers to the professional organizations calling on them to submit comments on it within a deadline specified by the Commissioner.

(5) In the course of the consultation procedure, the Commissioner shall draw up a proposal for the resolution of the complaint, and send it to the professional organizations. The Commissioner shall draw up the proposal acting as a representative of the interests of viewers, listeners or readers, and taking into account the comments of the professional organizations and the media content provider concerned.

(6) Based on the response of the professional organizations and the media content provider concerned, the Commissioner, if it is justified, shall invite the complainant, the professional organizations concerned and the media content provider concerned to participate in a personal consultation.

(7) The Commissioner shall prepare a report on the result of the consultation procedure, and send it to the complainant, the media content provider concerned and the professional organizations concerned. In the report, the Commissioner shall describe the circumstances of the harm to interests, and describe in detail the proposals and the responses and comments of the media content provider and the professional organizations. The Commissioner shall not disclose the report.

(8) For the purposes of this Section, the deadline set forth in Section 142 (2) shall be applicable to the preparation of the proposal under Subsection (5). The following periods shall not be taken into account with regard to the deadline:

a) the period specified for the comments pursuant to Subsection (4);

b) the time period required for the preparation of the expert's opinion if an expert's involvement is necessary in the consultation procedure.

The Commissioner's Report

Section 143

The Commissioner shall prepare a report every three months on the findings of the proceedings carried out, the results of the proposals, the reports and the proposals for the President with regard to cases involving electronic communications service providers and for the Media Council with regard to cases involving media content providers. The report made for the Media Council shall only contain the Commissioner's experiences in general, without any data regarding individual 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) 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.

(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)

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

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) 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) 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) In connection with any infringement of Sections 14-20 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

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) 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 Törvényszék (Budapest Metropolitan Court), 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 Törvényszék may not be appealed further.

Exclusions

Section 154

(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) is engaged in employment or other work-related contractual relationship with a private individual, a legal person or unincorporated organization, 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 155

(1) In establishing the facts of the case, the Authority shall apply the provisions of the Act on the General Rules of Administrative Proceedings and Services on establishing the facts of the case and on administrative inspections subject to Subsections (2)-(10).

(2) In the interest of establishing the facts of the case, the Authority shall have the right to inspect, examine and make duplicates and extracts of any and all instruments, papers and documents containing data related to the media service, publication of a press product or media service distribution, even if they contain business secrets.

(3) In the interest of establishing the facts of the case, the Authority may oblige

a) the client and

b) other participants of the proceedings, the agents and employees of the client or of other participants of the proceedings, or persons engaged in other legal relationships with the client or other participants of the proceedings, as well as, in especially justified cases, other persons or organizations (hereinafter referred to in this Section collectively as 'other participants of the proceedings')

– while warning them of the sanctions of not meeting or not appropriately meeting this obligation, pursuant to Section 156 – to make statements, to provide data, to provide, either orally or in writing, data in a comparable format as defined by the Authority, and to provide other information (for the purposes of this Section hereinafter collectively: 'data provision').

(4) The ruling described in (3) may be challenged by another participant of the proceedings obliged to provide data through submitting an appeal with suspensory effect to the Budapest-Capital Regional Court; the Court shall decide in the matter with priority in out-of-court proceedings within eight days. No further appeal shall lie against the ruling of the Budapest-Capital Regional Court.

(5) For the purposes of Subsections (2) and (3):

a) papers, instruments and documents generated during or for the communication between a client and their legal representative, or recording the contents of such communication, provided, in all the cases mentioned, that this characteristic is apparent from the paper, instrument or document itself, shall not be used as evidence, shall not be examined, shall not be seized and their holder shall not be obliged to produce it during an inspection;

b) the Authority cannot oblige the media content provider or any person employed by or engaged, in any other legal relationship intended for the performance of work, with the media content provider to provide any data or provide any paper, instrument or document that would reveal the identity of the person providing them with information in connection with the media content provision activities.

(6) The exemption in Subsection (5) shall remain in effect even after the legal relationship it is based on has ceased to exist. The client may waive the prohibition contained in (5) a).

(7) Rulings issued by the Authority requiring the client or other participants of the proceedings to provide any data or hand over any paper, instrument or document despite making reference to an exemption pursuant to Subsection (5) may be challenged by submitting an appeal with suspensory effect to the Budapest-Capital Regional Court; the Court shall decide in the matter with priority in out-of-court proceedings within eight days. No further appeal shall lie against the ruling of the Budapest-Capital Regional Court.

(8) A witness may be heard on the business secret of the client even if he or she 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 papers, data, documents and other means of evidence generated in the course of an administrative procedure also for the purposes of another procedure, when necessary for reducing the procedural burden on clients or for proper and effective law enforcement.

(10) The media service provider shall keep the authentic documentation on its programme flow, including the full recording of output signals in the media service, for a period of sixty days following the date of broadcast or in case of on-demand media service, following the last day of the making available of content. In the interest of administrative inspections – within the deadline for keeping the materials – the Authority may oblige the media service provider to hand over such materials free of charge and without delay. In case of an administrative procedure

instituted or a legal dispute arising in relation to a media service, the media service provider shall retain the documentation for a period of one year following the conclusion of the proceedings with a final force.

Administrative Fine

Section 156

(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) 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) 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 Törvényszék (Budapest Metropolitan Court) 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.

(6) The official decisions of the Media Council shall not be subject to supervisory action.

Section 164

(1) The court shall adopt its decision within thirty days in proceedings under Section 163 in the first and second instance as well.

(2) The judicial review proceedings shall fall within the exclusive competence of the Fővárosi Törvényszék (Budapest Metropolitan Court).

(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) The judicial review proceedings shall fall within the exclusive competence of the Fővárosi Törvényszék (Budapest Metropolitan Court).

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) 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.

(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) 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.

(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) The application may also include a motion 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) If the Media Council holds a hearing in the course of the proceedings, it shall attempt to mediate a settlement between the parties in the course of the hearing.

Section 173

(1) The parties and other stakeholders may attend the hearings as per Section 172 (8) in person or through their representatives, may make statements, put forward their comments and submit their pieces of evidence by the end of the hearing. The hearing shall 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) The Media Council shall have the right to call upon or oblige the adverse client to provide data and/or put forth statements on his/her part.”

(6) 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.

(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) The interim measures ordered by the Media Council may be challenged by the client before the Fővárosi Törvényszék (Budapest Metropolitan Court). The court shall adopt a decision in non-contentious proceedings within fifteen days. The ruling of the Fővárosi Törvényszék 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 175

Proceedings Against Media Content Providers Established in Other Member States

Section 176

(1) Where the linear audio visual 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:

a) 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) 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

d) 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 audio visual 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:

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:

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 Circumvention

Section 179

(1) This Act and Sections 13-20 of the Press Act shall apply to the linear audio visual 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 audio visual 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 audio visual 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.

(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) 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) 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.

(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) The procedure defined under Subsections (1)-(5) shall be exempt from duties, and the petitioner may not be required to pay an administrative service fee either. The provisions of Sections 163-165 shall also apply to any appeal against the resolution adopted in such proceedings, with the proviso that the client or other parties to the proceedings may request within fifteen days the review of the Media Council's final resolutions - alleging infringement - from the Fővárosi Ítéltábla (Budapest High Court of Appeal) by filing an action against the Media Council. The Fővárosi Ítéltábla shall adopt a decision within thirty days in litigious 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) rules on the broadcast of parliamentary sessions,
 - 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) shall supervise compliance with requirements set forth in Sections 14 and 16-20 of the Press and Media 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;
- 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) 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) define events of considerable importance to society by means of an official decision;
- 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 Közzszolgálati 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;
- q) 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 audio visual 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) 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) 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) 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.

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) 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 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,

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) 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, at least twice within three hundred and sixty-five days, not including insignificant offenses.

(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 188

(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.

(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 189

(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.

(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) 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 Törvényszék 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

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(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) 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) exercise supervision as to compliance with Sections 14-20 of the Press Act, or any of those provisions in relation to press products;

b) exercise supervision as to compliance with Sections 14-20 of the Press Act, or any of those provisions in relation to online press products;

c) exercise supervision as to compliance with Sections 14-20 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.

(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 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/A

The provisions laid down in this Chapter relating to co-regulation, shall neither affect nor restrict the right of media content providers to adopt and apply self-regulatory initiatives, within the scope of their activities, by way of their self-organizations, within the frameworks of this Act. The Media Council and the Authority shall support and respect these initiatives, in conformity with Article 8.

PART FIVE

DEFINITIONS

Section 203

1. 'Audio visual 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:

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. '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. 'Provider of electronic communications services' shall mean the operator of an electronic communications network, and any natural or legal person or unincorporated business association engaged in providing electronic communications services.

8. 'Subscriber' shall mean any natural or legal person or unincorporated business association 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. 'European work' shall mean:

(a) Hungarian works;

(b) works originating in Member States of the European Union;

(c) works originating in European States party to the European Convention on Transfrontier Television, adopted in Strasbourg on 5 May 1989, promulgated by Act XLIX of 1998;

(d) works produced in the cooperation of production companies of Member States of the European Union and States outside the European Union, provided that the contribution of co-producers of Member States to the total production costs is preponderant and the production is not controlled by one or more producers established outside the Member States; or

(e) works co-produced within the framework of agreements related to the audio visual sector concluded between the Union and third countries and fulfilling the conditions defined in each of those agreements.

The works referred to in points (b)-(c) are works made with authors and workers residing in one or more States referred to in these points, 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. the 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 defined under points (c) and (e) qualify as European works if no discriminatory measures apply to the works originating in the Members States in the State outside the European Union.

10. 'User' shall mean a natural or legal person or unincorporated business association 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 per cent 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. '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, or unincorporated business association 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. 'Teletext' shall mean a program made available by means of linear audio visual media service, principally serving the purpose of conveying information, and it may also contain still images, moving images, sounds and computer graphics.

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;

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. 'Public service announcement' shall mean any announcement released free of charge, made by an organization or natural person fulfilling State or local governmental responsibilities, 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. 'Audience share' shall mean the measurement of the ratio expressed in per centage paragraphs of the total time spent on viewing the programs of the linear audio visual 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 audio visual 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 audio visual 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);

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. '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 an economic operator in which the media service provider defined in Subsection (1) of Section 84 has a qualifying holding.

33. 'Public service media assets' shall mean cinematographic and other audio visual 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 public service media providers, their predecessors, the Médiaszolgáltatás-támogató és Vagyonkezelő Alap (Media Service Support and Asset Management Fund), produced on any legal grounds, obtained by purchase or obtained or created in whole or in part under use contracts; public media assets shall also cover copyrighted costumes, props, film sets and other authentic works, provided that the copyrights and certain related rights are owned or used to be owned by any of the public service media providers prior to the Act entering into force or by the Médiaszolgáltatás-támogató és Vagyonkezelő Alap subsequent to the act entering into force, including those over which any of the public service media providers obtain 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. Hungarian works shall mean:

(a) works originally made in the Hungarian language in their entirety;

(b) works originally made in several languages, but as to their length, their parts originally made in Hungarian are longer than any of their other parts made in any other language;

(c) works originally made in the languages of any of the nationalities recognised by Hungary, provided their subject matter concerns the life or culture of the given nationality in Hungary;

(d) music programmes performed in Hungarian or performed in the language of any of the nationalities recognised by Hungary, provided their subject matter concerns the culture of the given nationality related to Hungary;

(e) instrumental music programmes which, mainly because of their composer or performer, form part of Hungarian culture or the Hungary-related culture of any of the nationalities recognised by Hungary; or

f) cinematographic works which qualify as Hungarian in accordance with the Act on Motion Pictures.

38. 'Hungarian musical works' shall mean any musical works with lyrics and instrumental musical works, which are recognized as Hungarian.

39. '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.

40. '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. 'Media service provider' shall mean the natural or legal person, or unincorporated business association 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 audio visual 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. '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 audio visual 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. 'Media service distribution transmission platform' shall mean the transmission system, typically analogue or digital, ensuring the transmission of signals of the same technology.

52. '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 audio visual media service.

54. 'Composite program' shall mean a combination of several programs bearing a single main title or other distinctive feature.

55. 'Political advertisement' shall mean any program published for a fee or free of charge, 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 per cent 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. '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, or unincorporated business association, 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. '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.

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 per cent of the daily transmission time and - in the case of on-

demand media services - broadcasts programs of a similar theme in eighty per cent 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. 'Business entity' shall mean any natural person, private entrepreneur, business association, other legal entity or unincorporated business association.

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.

(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. 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:

a) the frequency fees, the fees payable for the reservation and use of identifiers, as well as the supervisory fee for communications and postal service providers, the method and conditions of payment of these amounts, the rules of the related supervisions,

b) the administrative service fee 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) 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.

(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 audio visual 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.

Chapter IV

TRANSITIONAL PROVISIONS

Transitional Rules Pertaining to Broadcasting Agreements

Section 207

(1) The analogue terrestrial broadcasting right defined in Act I of 1996 on Radio and Television Broadcasting (hereinafter as: Radio and Television Broadcasting Act) and the analogue linear media service provision right using state-owned limited resources as defined in this Act can only be exercised on the basis of the public contract concluded with the Media Council, with the exception of the procedure defined under Section 48 (4) and the media services of the public media service providers as per Section 203 (32).

(2) – (5)

(6) Providers of analogue terrestrial national audio visual media services may not charge any program service fee (broadcasting fee) for the provision of media services until the date specified in Subsection (1) of Section 38 of the DTA.

(8) Until the broadcasting agreement is converted into a public contract, the media service provider shall abide by the provisions contained in the broadcasting agreement, even if a given contractual obligation covers certain specific provisions of the Media Act of 1996 that - according to this Act - no longer applies, or applies differently to the media service provider in question.

(9) 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

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.

Transitional Provisions Pertaining to Public Program Providers and Non-Profit Oriented Broadcasters

Section 209- 210.

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.

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 Közszolgálati 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.

(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) 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) 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) 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.

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.

(4) In the event of any infringement of the provisions of Sections 14-20 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) In the case specified in Section 129 (1) (a), the date of termination of the mandate of the President and members of the Media Council shall be the commencement date of the mandate of the recently elected President and members. In the case specified in Section 113 (1) (a), the date of termination of the mandate of the President of the Authority shall be the commencement date of the mandate of the recently appointed President. If the new President of the Authority is not elected as President of the Media Council by the Parliament within 30 days from his/her appointment, or, if such an appointment takes place outside the parliamentary session, within 15 days from the starting date of the forthcoming parliamentary session; the mandate of the former President of the Media Council shall continue until the election of the new President of the Media Council. If the Authority does not have an elected President, the powers and responsibilities of the President shall be performed by the President of the Media Council, or by the member of the Media Council in the case specified under Section 131 (2).

Section 217

The provisions of this Act determined by Act LXVI of 2012 on the Amendment of Certain Acts regarding Media Services and Press Products shall be applied to ongoing procedures as well, with the proviso that the provisions of substantive law in force at the time the given offence was committed shall be applied for offences committed prior to the entry into force of the above-mentioned provisions.

Section 218

The management, maintenance and operation of the Nemzeti Audiovizuális Archívum (National Audio visual 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.

Chapters V-VI

Sections 219-228

Chapter VI/A

Compliance with the Majority Requirement Set Out in the Fundamental Law

Section 229

Sections 1-203 and Sections 206-218 of, and Schedules Nos. 1 and 4 to this Act shall be considered an implementing act pursuant to Article IX(3) and Article 23 of the Fundamental Law.

Chapter VII

Compliance with the Acquis

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 audio visual media services (codified version) (Audio visual 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) associations and bodies of municipal governments of Hungary
 - j) nation-wide self-governments of nationalities in Hungary
 - k) 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

Schedule No. 3 to Act CLXXXV of 2010

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

Act LXVI of 2012

on the Amendment of Certain Acts regarding Media Services and Press Products

1. Amendment of Act III of 1952 on the Code of Civil Procedure

Section 1

(1) The following Paragraph f) shall be added to Section 170 (1) of Act III of 1952 on the Code of Civil Procedure (hereinafter: Civil Procedure Act):

(Giving testimony may be refused:)

“f) by media content providers and any person employed by or engaged, in any other legal relationship intended for the performance of work, with the media content provider, regarding issues where, by testifying, they would reveal the identity of the person providing information to them regarding the media content provision activities.”

(2) The following Subsection (6a) shall be added to Section 170 of the Civil Procedure Act:

“(6a) The exemption in (1) f) shall remain in effect even after the legal relationship it is based on has ceased to exist.”

Section 2

The following Section 396/A shall be added to the Civil Procedure Act:

“Section 396/A For the purposes of this Act, ‘media content provider’ shall mean a media content provider as defined in the Act on the Freedom of the Press and the Fundamental Rules of Media Content.”

Section 3

In Section 170 (5) of the Civil Procedure Act, the text “Paragraphs a) and c)-e)” shall be replaced by “Paragraphs a) and c)-f)”.

2. Amendment of Act XIX of 1998 on the Code of Criminal Procedure

Section 4

(1) The following Paragraph d) shall be added to Section 82 (1) of Act XIX of 1998 on the Code of Criminal Procedure (hereinafter: Criminal Procedure Act):

(Giving testimony may be refused:)

“d) by media content providers and any person employed by or engaged, in any other legal relationship intended for the performance of work, with the media content provider, regarding issues where, by testifying, they would reveal the identity of the person providing information to them regarding the media content provision activities, except if the court orders the identity of the person providing information to be revealed.”

(2) The following Subsection (6) shall be added to Section 82 of the Criminal Procedure Act:

“(6) The court can order the media content provider and any person employed by or engaged, in any other legal relationship intended for the performance of work, with the media content provider to

reveal the identity of the person providing information to them regarding the media content provision activities, if knowing the identity of the person providing the information is indispensable for the investigation of a willful criminal act punishable by imprisonment of three or more years, the evidence thus expected cannot be substituted by other evidence, and the interest pertaining to the investigation of the criminal act – with particular consideration of the real aspects of the criminal act – is so significant, that it clearly outweighs the interest which pertains to the confidentiality of the source of the information.”

Section 5

The following Subsection (4) shall be added to Section 83 of the Criminal Procedure Act:

“(4) The exemption in Section 82 (1) d) shall remain in effect even after the legal relationship it is based on has ceased to exist.”

Section 6

The following Paragraph d) shall be added to Section 152 (5) of the Criminal Procedure Act:

[Limitations set forth in Subsections (3) and (4) shall not apply if]

“d) the person authorized to refuse to testify in accordance with Section 82 (1) d) was ordered by the court to reveal the identity of the person providing information to them pursuant to Section 82 (6).”

Section 7

The following Paragraph f) shall be added to Section 207 (2) of the Criminal Procedure Act:

(The investigative judge shall decide)

“f) on ordering the person who refuses to testify in accordance with Section 82 (1) d) to reveal the identity of the person who provides information to them, prior to the submission of the indictment and upon the motion of the prosecutor, pursuant to Section 82 (6).”

Section 8

The following Subsection (5a) shall be added to Section 215 of the Criminal Procedure Act:

“(5a) Appeals against a decision ordering persons refusing to testify in accordance with Section 82 (1) d) to reveal the identity of persons providing information to them in accordance with Section 82 (6), shall have suspensory effect.”

Section 9

The following Subsection (4) shall be added to Section 293 of the Criminal Procedure Act:

“(4) Appeals against a decision ordering persons refusing to testify in accordance with Section 82 (1) d) to reveal the identity of persons providing information to them in accordance with Section 82 (6), shall have suspensory effect.”

Section 10

The following Subsection (6) shall be added to Section 601 of the Criminal Procedure Act:

“(6) For the purposes of this Act, ‘media content provider’ shall mean a media content provider as defined in the Act on the Freedom of the Press and the Fundamental Rules of Media Content.”

3. Amendment of Act CXL of 2004 on the General Rules of Administrative Proceedings and Services

Section 11

(1) Section 50/A (2) of Act CXL of 2004 on the General Rules of Administrative Proceedings and Services (hereinafter: APA) shall be replaced by the following:

“(2) In the process of the implementation of the seizure, the holder of the property shall be called upon to surrender the property. Any person who cannot be heard as a witness or who has the right to refuse to testify pursuant to Section 53 (4) c), shall not be obliged to surrender the property, if surrendering the property would reveal the identity of the person providing information to them.”

(2) The following Subsection (2a) shall be added to Section 50/A of the APA:

“(2a) The exemption from the obligation to surrender the property conceded to persons who have the right to refuse to testify pursuant to Section 53 (4) c) shall remain in effect even after the legal relationship it is based on has ceased to exist.”

(3) Section 50/A (5) of the APA shall be replaced by the following:

“(5) An independent appeal may be lodged against rulings ordering seizure and rulings rejecting the request for the termination of seizure. Appeals shall not have suspensory effect on the enforcement of the ruling, except if the seizure was ordered despite making reference to Section 53 (4) c).”

Section 12

(1) Section 51 (4) of the APA shall be replaced by the following:

“(4) Where the disclosure of data is prescribed by an act or government decree, the client in ex officio proceedings, or the adverse party in proceedings opened upon request may refuse to comply if:

- a) he/she was not released from the obligation of confidentiality relating to classified information,
- b) compliance would incriminate himself/herself or his/her relative, or
- c) the client or adverse party is a media content provider or a person employed by or engaged, in any other legal relationship intended for the performance of work, with the media content provider, and disclosure would reveal the identity of the person providing information to them regarding the media content provision activities.”

(2) The following Subsections (4a) and (4b) shall be added to Section 51 of the APA:

“(4a) The exemption in (4) c) shall remain in effect even after the legal relationship it is based on has ceased to exist.

(4b) An independent appeal may be lodged against rulings ordering the client or adverse party to disclose information despite making reference to (4) c).”

Section 13

(1) Section 53 (4) of the APA shall be replaced by the following:

“(4) Testimony may be refused if:

- a) the witness is a relative of any of the clients,
- b) it would incriminate the witness himself/herself or his/her relative, or
- c) the witness is a media content provider or any person employed by or engaged, in any other legal relationship intended for the performance of work, with the media content provider, and their

testimony would reveal the identity of the person providing information to them regarding the media content provision activities.”

(2) The following Subsection (8) shall be added to Section 53 of the APA:

“(8) The exemption in (4) c) shall remain in effect even after the legal relationship it is based on has ceased to exist.”

Section 14

The following Subsection (7) shall be added to Section 57/A of the APA:

“(7) If the holder of the subject-matter of the inspection is a media content provider or any person employed by or engaged, in any other legal relationship intended for the performance of work, with the media content provider, and presenting the subject-matter of the inspection would reveal the identity of the person providing information to them regarding the media content provision activities, the holder of the subject-matter of the investigation shall not be obliged to present it. This exemption shall remain in effect even after the legal relationship it is based on has ceased to exist.”

Section 15

The following Paragraph o) shall be added to Section 172 of the APA:

(For the purposes of this Act:)

“o) ‘media content provider’ shall mean a media content provider as defined in the Act on the Freedom of the Press and the Fundamental Rules of Media Content.”

4. Amendment of Act CIV of 2010 on the Freedom of the Press and the Fundamental Rules of Media Content

Section 16

The following Subsection (1a) shall be added to Section 2 of Act CIV of 2010 on the Freedom of the Press and the Fundamental Rules of Media Content (hereinafter: Press and Media Act):

“(1a) This Act – except for Section 13, Section 14 (1), Section 19 (1), (2) and (4), the second sentence of Section 20 (8) and Section 20 (9) – shall apply also to the press products published by media content providers established in the territory of Hungary.”

Section 17

Section 6 of the Press and Media Act shall be replaced by the following provision:

“Section 6 (1) In accordance with the relevant statutory provisions, the media content provider and any person employed by or engaged, in any other legal relationship intended for the performance of work, with the media content provider shall have the right in judicial or administrative proceedings to keep confidential the identity of the person supplying them with information regarding the media content provision activities (hereinafter: source of information), and to refuse to hand over any document, paper, object or data medium that could potentially reveal the identity of the source of information.

(2) In exceptionally justified cases defined by an act, courts may – in the interest of investigating criminal acts – order the media content provider and any person employed by or engaged, in any other legal relationship intended for the performance of work, with the media content provider to reveal the identity of the source of information or to hand over a document, paper, object or data medium that could potentially reveal the identity of the source of information.”

Section 18

Section 14 of the Press and Media Act shall be replaced by the following provision:

“Section 14 (1) The media service provider shall respect human dignity in the media content that it publishes.

(2) No self-indulgent and detrimental coverage of persons in humiliating or defenceless situations is allowed in the media content.”

Section 19

Section 15 of the Press and Media Act shall be replaced by the following provision:

“Section 15 (1) It is prohibited to misuse the approval granted to the media content provider for the publication of statements intended for public disclosure or for the appearance in the media content.

(2) The media content provider shall, on request of the person who made the statement or appears in the media content, present the statement intended for public disclosure to that person before publication, and may not publish it if the person concerned refuses to grant approval for publication because the media content provider has modified or distorted it materially and the modification is detrimental to the person who made the statement or appears in the media content. The relevant rules of civil and criminal law shall apply to cases where material detrimental to reputation or honour is published despite the withdrawal of approval.

(3) In cases not covered by Subsection (2), the approval for the publication of the statement or the appearance may not be withdrawn, if

- a) the statement was made in connection with a public event at a local, national or European level;
- b) the statement concerns an event that bears relevance to the citizens of Hungary and the members of the Hungarian nation, or
- c) the statement was made by a person holding public official, a person performing public duties or a person publicly involved in politics, in relation to the delivery of the person’s public mission.

(4) Media content providers shall not enter into agreement with persons appearing in media content which limits within the scope of the agreement the enforceability of the right of the person appearing in media content to reputation, honour or privacy, or the right to withdraw the statement or appearance pursuant to Subsections (1) and (2). Such contractual provisions shall be null and void.”

Section 20

Section 16 of the Press and Media Act shall be replaced by the following provision:

“Section 16 Media content shall not violate the constitutional order.”

Section 21

The following Subsection (4a) shall be added to Section 19 of the Press and Media Act:

“(4a) The presentation of minors in media content in a way that would gravely endanger their mental or physical development corresponding to their age shall be prohibited.”

Section 22

Section 18 of the Press and Media Act shall be repealed.

5. Amendment of Act CLXXXV of 2010 on Media Services and Mass Media

Section 23

PART FOUR, CHAPTER III of Act CLXXXV of 2010 on Media Services and Mass Media (hereinafter: Media Act) shall be replaced by the following:

“CHAPTER III

THE MEDIA AND COMMUNICATIONS COMMISSIONER

General Rules

Section 139 (1) A Media and Communications Commissioner (hereinafter: Commissioner) shall operate as part of the Authority. The Commissioner shall contribute to the promotion of the equitable interests of users, subscribers, viewers, listeners, consumers of electronic communications services or media services, as well as the readers of press products, regarding electronic communications, media services and press products. The Commissioner shall act in matters vested with him/her under this Act.

(2) The Commissioner shall be appointed and dismissed by the President, who shall also exercise the employer’s powers over him/her. The Commissioner is a civil servant in the position of a Head of Division. In performing his/her duties specified in this Chapter, the Commissioner may not be instructed.

(3) The provisions of Section 111 (4) shall apply mutatis mutandis to the Commissioner.

(4) The Commissioner is assisted in performing his/her duties by the Office of the Media and Communications Commissioner (hereinafter: Commissioner’s Office) headed by the Commissioner; the civil servants working in the Commissioner’s Office shall be appointed and dismissed by the President; other employer’s powers over these civil servants shall be exercised by the Commissioner.

(5) The operation, organisational structure, internal and external relations of the Commissioner’s Office is defined in the Organizational and Operational Rules of the Authority and the rules of procedure of the Commissioner’s Office. The rules of procedure of the Commissioner’s Office shall be prepared by the Commissioner and approved by the President.

(6) The budget of the Commissioner’s Office shall be established separately within the budget of the Authority.

Section 140 (1) Upon detecting a conduct related to the provision of a media service, press product or electronic communications service, that does not constitute a breach of a regulation on media administration or electronic communications and falls outside the scope of competence of the Media Council, the President or the Office, but is or may be detrimental to the equitable interests of the users, subscribers, consumers, viewers, readers and listeners of media services, press products and electronic communications services,

a) the person affected by the harm to interests or exposed to the direct danger of such harm to interests (hereinafter referred to collectively in this Chapter as ‘harm to interest’); or

b) the association engaged in the protection of consumer, subscriber, user, or viewer, listener and reader rights

shall have the right to resort to the Commissioner’s Office with its complaint.

(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 all the data required under Section 141 (5) shall be transferred to the Commissioner by the President, the Office or the Media Council within eight days, and the Commissioner shall adjudge such requests and notifications as complaints received by him/her. This fact, as well as the fact of the transfer shall be communicated to the requesting party and the complainant concurrently with the transfer.

(3) The Commissioner shall proceed according to Section 142 in the case of complaints regarding electronic communications services, and according to Section 142/A in the case of complaints regarding media services and press products.

Common Provisions Pertaining to the Proceedings of the Commissioner

Section 141 (1) The proceedings of the Commissioner shall not be deemed to be an administrative procedure, the Commissioner shall not have the right to exercise administrative authority. Complaints as defined in Section 140 (1) shall not be deemed to be administrative cases. The Commissioner shall only use administrative instruments in the case of complaints regarding electronic communications services, in the manner specified in Section 142.

(2) The Commissioner may only launch proceedings in response to a complaint. The Commissioner shall examine the complaint and if it is obviously unfounded or if the harm to interests therein described is of minor importance, or if the case falls outside the Commissioner's scope of competence, he/she shall notify the complainant accordingly within fifteen days. In his/her notification, the Commissioner shall – to the necessary extent – inform the complainant of his/her rights and obligations under the regulation on electronic communications and/or media administration or under the subscription contract, as well as the course of action and means of legal remedy available for such complainant.

(3) If, during the consultation procedure described in Article 142 (4) or 142/A (1), the Commissioner establishes that the complaint is unfounded or the harm to interests therein is of minor importance or the case falls outside the Commissioner's scope of competence, he/she shall terminate the procedure and shall notify the complainant and the participants of the consultation procedure thereof accordingly within fifteen days. In his/her notification, the Commissioner shall, as necessary, inform the complainant of his/her rights and obligations under the regulation on electronic communications or media administration or under the subscription contract, as well as the procedures and means of legal remedy available for such complainant.

(4) The complainant shall have the right to request confidentiality concerning his/her personal identification data and address. In such cases, the Commissioner, with a view to ensuring the right of inspection of documents, shall make an extract of the complaint in a manner which prevents the identity of the complainant from being established. The Commissioner shall only release this extract to third parties. For the purposes of investigating the complaint, the Commissioner shall control the personal data of the complainant revealed to the Commissioner in the course of the procedure and directly related to the complaint, until the completion of the investigation procedure. This fact shall be communicated to the complainant.

(5) The complaint shall contain the name and the address or mailing address of the complainant, the particulars of the harm to interests that call for action by the Commissioner, and the action or conduct on the base of which the harm to interests is plausible, as well as the circumstances that suggest or substantiate that the other conditions laid down in Section 140 (1) are fulfilled. In case of a defective complaint, the Commissioner may at any stage of the procedure call on the complainant to remedy the deficiencies within a specific deadline. If the complainant, despite the Commissioner's call to do so, fails to remedy or improperly remedies deficiencies, the application may not be deemed as a complaint, and therefore the Commissioner shall not proceed, and; if the proceeding has already started, he/she shall terminate it, and shall notify the complainant and the participants of the consultation procedure thereof within fifteen days. In his/her notification, the Commissioner shall, as

necessary, inform the complainant of his/her rights and obligations under the regulation on electronic communications or media administration or under the subscription contract, as well as the procedures and means of legal remedy available for such complainant.

The Proceedings of the Commissioner in Case of Complaints Regarding Electronic Communications Services

Section 142 (1) In order to investigate the harm to interests as defined in Section 140 (1) reported in a complaint, the Commissioner shall have the right to request data related to the harm to interests from any electronic communications service provider, and may suitably apply the measures defined in the Act on the General Rules of Administrative Proceedings and Services regarding administrative inspections and the measures defined in this Act regarding establishing the facts of the case. The electronic communications service provider concerned shall provide the Commissioner with the requested data, information, guidance, document, paper (hereinafter referred to collectively in this subtitle as ‘data’) within fifteen days even if the data concerned qualify as business secrets. The Commissioner shall keep business secrets revealed to him/her as confidential and handle them at the request of the data supplier as a document with restricted access.

(2) The Commissioner shall complete his/her proceedings under this Section within the deadline set forth in Section 151. The following periods shall not be taken into account with regard to the deadline:

- a) the period from the notice calling upon the complainant to remedy the deficiencies of the complaint pursuant to Section 141 (5) until the remedying of the deficiencies,
- b) the period from the request of data pursuant to Subsection (1) until the data is supplied,
- c) the duration of the procedure as defined in Subsection (3),
- d) the period from the request to provide a statement pursuant to Subsection (5) until the statement is provided.

(3) In the event that the electronic communications service provider concerned fails to provide the Commissioner with the requested data within the specified deadline, the Commissioner shall resort to the Office. The Office shall be obliged to initiate an oral or written consultation procedure with the electronic communications service provider concerning the necessity of the provision of the data and the scope of the data to be provided. After this consultation, the Office shall oblige the electronic communications service provider concerned to provide the data related to the harm to interests as specified by the Commissioner in accordance with Subsection (1) and the result of the consultation procedure. An appropriate deadline of at least fifteen days shall be set for the provision of data. Section 155 (5)-(7) shall be applied mutatis mutandis. Electronic communications service providers concerned may request the review of the ruling through an appeal with suspensory effect at the Budapest-Capital Regional Court. The Budapest-Capital Regional Court shall decide on the case in an out-of-court proceeding within eight days, and further appeal against its ruling shall not be available. In the event that the electronic communications service provider fails to provide the Office with the requested data, or it provides incomplete or false data within the specified deadline, the Office may apply the sanctions defined in Section 156. The Office shall transmit the received data to the Commissioner.

(4) In the course of his/her proceedings, the Commissioner shall conduct oral or written consultations with the electronic communications service provider regarding the harm to interests (hereinafter for the purposes of this Section: ‘consultation procedure’). If the Commissioner deems it appropriate and the complainant requests it, the Commissioner shall involve the complainant in the consultation procedure, and, if the case concerns a large number of consumers, the Commissioner may involve the representative of the association engaged in the protection of consumer interests.

(5) In the consultation procedure the Commissioner shall send the description of the harm to interests to the electronic communications service provider calling on it to submit comments on it within a

deadline of at least 15 days, specified by the Commissioner.

(6) In justified cases, the Commissioner, on the basis of the written comments of the electronic communications service provider, shall invite the representative of the electronic communications service provider concerned, and, if needed, the complainant and the representative of the association engaged in the protection of consumer interests to attend a personal consultation.

(7) In the event that the Commissioner and the electronic communications service provider fail to reach an agreement to remedy the harm to interests, the Commissioner shall record the results of the consultation procedure in a report and proceed as defined in Subsection (9). If the consultation procedure is successful, the Commissioner and the electronic communications service provider concerned shall record the results in an agreement, which the Commissioner shall send to the complainant and publish on his/her website. The parties shall provide for the manner of remedying the harm to interests in the agreement.

(8) The agreement is a concordant and voluntary legal statement of the parties, concluded between the Commissioner and the electronic communications service provider concerned, whereby the contractual rights shall entitle the users, subscribers and consumers of the electronic communications service concerned. No obligations may be attributed to users, subscribers or consumers under the agreement. The provisions of the agreement shall constitute part of – and amend – the legal relationship of the users, subscribers or consumers concerned established with the electronic communications service provider concerned, whereby the provisions of the agreement will be applicable in individual cases and the users, subscribers or consumers concerned may make a reference to these provisions in individual cases, and the Authority shall have the right to supervise compliance with the provisions of the agreement in the course of an administrative inspection. The extent of cooperation displayed by the electronic communications service provider concluding the agreement as per this Subsection with regard to the effective enforcement of consumer interests shall also be taken into account by the Authority in other administrative cases affecting the electronic communications service provider.

(9) The Commissioner shall draw up a report on successful consultation procedures as needed, and on every consultation procedure without an agreement, and shall send the report to the complainant, the electronic communications service provider concerned and the association representing consumer interests participating in the proceedings. In addition to the particulars of the harm to interests, the Commissioner shall describe in the report the conduct of the electronic communications service provider in detail as to how it handled the harm to interests, and in particular its willingness to cooperate in remedying the harm to interests and enhancing consumer well-being. The Commissioner shall publish his/her report if it affects or may affect a large number of consumers or may issue a recommendation or an information note for the consumers with a view to avoiding further harms to interests. If there is no agreement, the electronic communications service provider concerned shall, within a deadline of at least 15 days set by the Commissioner, inform the Commissioner of the measures taken.

The Proceedings of the Commissioner in Case of Complaints Regarding Media Services and Press Products

Section 142/A (1) In the course of his/her proceedings, the Commissioner shall conduct oral or written consultations with the professional, interest representing or self-regulatory organizations of media content providers (hereinafter for the purposes of this Section: professional organizations) regarding the harm to interests as defined in Section 140 (1) (hereinafter for the purposes of this Section: ‘consultation procedure’).

(2) The Commissioner shall only proceed with regard to the complaint,

a) if the complaint relates to an activity causing harm to interests which occurred repeatedly during the activities of the media content provider or which occurred during the activities of several media content providers, and

- b) if the harm to interests complained of affects a significant part of viewers, listeners or readers.
- (3) The Commissioner shall inform the media content provider about the complaint regarding its activities, and shall ensure that the media content provider can articulate its views in every phase of the consultation procedure.
- (4) In the consultation procedure, the Commissioner shall send the description of the harm to interests affecting a significant part of the viewers, listeners or readers to the professional organizations calling on them to submit comments on it within a deadline specified by the Commissioner.
- (5) In the course of the consultation procedure, the Commissioner shall draw up a proposal for the resolution of the complaint, and send it to the professional organizations. The Commissioner shall draw up the proposal acting as a representative of the interests of viewers, listeners or readers, and taking into account the comments of the professional organizations and the media content provider concerned.
- (6) Based on the response of the professional organizations and the media content provider concerned, the Commissioner, if it is justified, shall invite the complainant, the professional organizations concerned and the media content provider concerned to participate in a personal consultation.
- (7) The Commissioner shall prepare a report on the result of the consultation procedure, and send it to the complainant, the media content provider concerned and the professional organizations concerned. In the report, the Commissioner shall describe the circumstances of the harm to interests, and describe in detail the proposals and the responses and comments of the media content provider and the professional organizations. The Commissioner shall not disclose the report.
- (8) For the purposes of this Section, the deadline set forth in Section 142 (2) shall be applicable to the preparation of the proposal under Subsection (5). The following periods shall not be taken into account with regard to the deadline:
- a) the period specified for the comments pursuant to Subsection (4);
 - b) the time period required for the preparation of the expert's opinion if an expert's involvement is necessary in the consultation procedure.

The Commissioner's Report

Section 143 The Commissioner shall prepare a report every three months on the findings of the proceedings carried out, the results of the proposals, the reports and the proposals for the President with regard to cases involving electronic communications service providers and for the Media Council with regard to cases involving media content providers. The report made for the Media Council shall only contain the Commissioner's experiences in general, without any data regarding individual media content providers."

Section 24

Section 155 of the Media Act shall be replaced by the following provision:

"Section 155 (1) In establishing the facts of the case, the Authority shall apply the provisions of the Act on the General Rules of Administrative Proceedings and Services on establishing the facts of the case and on administrative inspections subject to Subsections (2)-(10).

(2) In the interest of establishing the facts of the case, the Authority shall have the right to inspect, examine and make duplicates and extracts of any and all instruments, papers and documents containing data related to the media service, publication of a press product or media service distribution, even if they contain business secrets.

(3) In the interest of establishing the facts of the case, the Authority may oblige

a) the client and

b) other participants of the proceedings, the agents and employees of the client or of other participants of the proceedings, or persons engaged in other legal relationships with the client or other participants of the proceedings, as well as, in especially justified cases, other persons or organizations (hereinafter referred to in this Section collectively as ‘other participants of the proceedings’)

– while warning them of the sanctions of not meeting or not appropriately meeting this obligation, pursuant to Section 156 – to make statements, to provide data, to provide, either orally or in writing, data in a comparable format as defined by the Authority, and to provide other information (for the purposes of this Section hereinafter collectively: ‘data provision’).

(4) The ruling described in (3) may be challenged by another participant of the proceedings obliged to provide data through submitting an appeal with suspensory effect to the Budapest-Capital Regional Court; the Court shall decide in the matter with priority in out-of-court proceedings within eight days. No further appeal shall lie against the ruling of the Budapest-Capital Regional Court.

(5) For the purposes of Subsections (2) and (3):

a) papers, instruments and documents generated during or for the communication between a client and their legal representative, or recording the contents of such communication, provided, in all the cases mentioned, that this characteristic is apparent from the paper, instrument or document itself, shall not be used as evidence, shall not be examined, shall not be seized and their holder shall not be obliged to produce it during an inspection;

b) the Authority cannot oblige the media content provider or any person employed by or engaged, in any other legal relationship intended for the performance of work, with the media content provider to provide any data or provide any paper, instrument or document that would reveal the identity of the person providing them with information in connection with the media content provision activities.

(6) The exemption in Subsection (5) shall remain in effect even after the legal relationship it is based on has ceased to exist. The client may waive the prohibition contained in (5) a).

(7) Rulings issued by the Authority requiring the client or other participants of the proceedings to provide any data or hand over any paper, instrument or document despite making reference to an exemption pursuant to Subsection (5) may be challenged by submitting an appeal with suspensory effect to the Budapest-Capital Regional Court; the Court shall decide in the matter with priority in out-of-court proceedings within eight days. No further appeal shall lie against the ruling of the Budapest-Capital Regional Court.

(8) A witness may be heard on the business secret of the client even if he or she 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 papers, data, documents and other means of evidence generated in the course of an administrative procedure also for the purposes of another procedure, when necessary for reducing the procedural burden on clients or for proper and effective law enforcement.

(10) The media service provider shall keep the authentic documentation on its programme flow, including the full recording of output signals in the media service, for a period of sixty days following the date of broadcast or in case of on-demand media service, following the last day of the making available of content. In the interest of administrative inspections – within the deadline for keeping the materials – the Authority may oblige the media service provider to hand over such materials free of charge and without delay. In case of an administrative procedure instituted or a legal dispute arising in relation to a media service, the media service provider shall retain the documentation for a period of one year following the conclusion of the proceedings with a final force.”

Section 25

Section 182 c) of the Media Act shall be replaced by the following provision:

(Acting in its administrative powers, the Media Council, in accordance with Section 132,)

“c) shall supervise compliance with requirements set forth in Sections 14 and 16-20 of the Press and Media Act;”

Section 26

(1) Section 20 of the Media Act shall be replaced by the following provision:

“Section 20 (1) The media service provider

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

b) shall allocate at least ten percent of its annual total transmission time of linear audiovisual media services to broadcasting such European works, and at least eight percent of its transmission time to broadcasting such Hungarian works that were ordered by it from an independent production company, or were purchased from an independent production company as works produced not more than 5 years earlier.

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

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

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

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

(c) over one-quarter of its annual transmission time to European works produced not more than 5 years earlier which were ordered by it from an independent production company or which were purchased from an independent production company.

(4) The obligation stipulated under Subsection (1)-(2) concerning the broadcasting of Hungarian works shall exclusively apply for media services targeted at the territory of Hungary.”

(2) Article 22 (3) of the Media Act shall be replaced by the following provision:

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

(3) Section 22 (6) of the Media Act shall be replaced by the following provision:

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

(4) Article 203 (9) of the Media Act shall be replaced by the following provision:

“9. European work shall mean:

(a) Hungarian works;

- (b) works originating in Member States of the European Union;
- (c) works originating in European States party to the European Convention on Transfrontier Television, adopted in Strasbourg on 5 May 1989, promulgated by Act XLIX of 1998;
- (d) works produced in the cooperation of production companies of Member States of the European Union and States outside the European Union, provided that the contribution of co-producers of Member States to the total production costs is preponderant and the production is not controlled by one or more producers established outside the Member States; or
- (e) works co-produced within the framework of agreements related to the audiovisual sector concluded between the Union and third countries and fulfilling the conditions defined in each of those agreements.

The works referred to in points (b)-(c) are works made with authors and workers residing in one or more States referred to in these points, 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. the 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 defined under points (c) and (e) qualify as European works if no discriminatory measures apply to the works originating in the Members States in the State outside the European Union.”

(5) Article 203 (37) of the Media Act shall be replaced by the following provision:

“37. Hungarian works shall mean:

- (a) works originally made in the Hungarian language in their entirety;
- (b) works originally made in several languages, but as to their length, their parts originally made in Hungarian are longer than any of their other parts made in any other language;
- (c) works originally made in the languages of any of the nationalities recognised by Hungary, provided their subject matter concerns the life or culture of the given nationality in Hungary;
- (d) music programmes performed in Hungarian or performed in the language of any of the nationalities recognised by Hungary, provided their subject matter concerns the culture of the given nationality related to Hungary;
- (e) instrumental music programmes which, mainly because of their composer or performer, form part of Hungarian culture or the Hungary-related culture of any of the nationalities recognised by Hungary; or
- f) cinematographic works which qualify as Hungarian in accordance with the Act on Motion Pictures.”

(6) The following Section 202/A shall be added to Chapter VI of PART FOUR of the Media Act:

“Section 202/A The provisions laid down in this Chapter relating to co-regulation, shall neither affect nor restrict the right of media content providers to adopt and apply self-regulatory initiatives, within the scope of their activities, by way of their self-organizations, within the frameworks of this Act. The Media Council and the Authority shall support and respect these initiatives, in conformity with Article 8.”

Section 27

The following Section 110/A shall be added to the Media Act:

“Section 110/A (1) The Authority shall establish the principles related to its personnel policy independently, in order to retain the specialist personnel with the special expertise and competences required for the performance of its duties as detailed under Sections 109-110.

(2) The Director General and Deputy Director General of the Authority, as well as the employees of the Authority, shall perform their activities within the framework of a public service legal relationship, and their legal relationship shall be governed by the provisions of the Act on Civil Servants applicable to civil servants, subject to the differences specified under this Act.

(3) The President of the Authority shall determine the system of the different posts of employment required for performance of the tasks of the Authority, the amount of the resources required for the performance of the tasks, and define in the Organizational and Operational Rules of the Authority those employment positions not falling under Subsection (2), where the employees perform their tasks under an employment relationship.

(4) The President of the Authority, within his/her own powers which cannot be transferred, shall decide upon the principles of the remuneration policy of the Authority, the fringe benefits, the basic salary of its civil servants, and any deviations thereof.

(5) The President of the Authority can determine a special personal remuneration to civil servants who are in an employment positions requiring special, unique expertise or to civil servants filling more than one senior position. Personal remuneration can be granted up to the maximum of twenty percent of the active employee headcount of the Authority and can be withdrawn without the need for any explanations. The President of the Authority shall determine the rules restricting the employment of the persons in the above-mentioned posts of employment, which may be applied upon termination of the legal relationship of these persons, and these rules shall be specified in detail in the employment document.

(6) The President of the Authority shall, at his/her own discretion, determine in the Public Service Policy of the Authority the detailed rules related to the performance assessment system and the related remuneration, recruitment and selection policies, as well as the planning and execution of the in-service training, courses, and individual development.

(7) The Authority, being an autonomous regulatory body, shall not be subject to the data provision obligation related to public administration personnel activities.”

Section 28

(1) Section 73 (6) of the Media Act shall be replaced by the following provision:

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

(2) Section 75 (2) of the Media Act shall be replaced by the following provision:

“(2) The media service distributor shall – in respect of no more than two further media services – be subject to an obligation to contract, regarding the technically and economically founded contract offers made by the media service provider with a local reception area, regarding the provision of its audiovisual media service, provided that, based on the data in the register of the Authority, the reception area of the given media service provider falls within the given media service distributor’s reception area or within the separate service area as per Subsection (4), and that it provides its media service specifically for the given area’s population. Pursuant to Subsection (1)-(2), the media service

distributors performing their services via satellite or terrestrial broadcasting networks shall not be subject to the “must carry” obligation in respect of the local media services subject to the “must carry” obligation.”

(3) Section 75 (4)-(5) of the Media Act shall be replaced by the following provisions:

“(4) If the transmission system of the media service distributor, as per Subsection (1)-(3), consists of parts serving several areas that can be technically distinguished from each other, the media service distributor shall be subject to the obligations, as per Subsection (1)-(3) *mutatis mutandis*, in respect of each technically distinguishable area separately. As far as the “must carry” obligation is concerned, technically distinguishable area shall mean the geographical area served by those parts of the transmission system within which no other media service can be installed into or removed from the transmitted complex program signal under economically or technically reasonable conditions, in other words within such an area all users choosing the same program package shall have access to an identical program structure.

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

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

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

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

(4) Section 75 (8) of the Media Act shall be replaced by the following provision:

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

(5) Section 75 (10) of the Media Act shall be replaced by the following provision:

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

(6) Section 76 of the Media Act shall be replaced by the following provisions:

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

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

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

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

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

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

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

(7) The following Subsection (51a) shall be added to Section 203 of the Media Act:

"51a. Media service distribution transmission platform shall mean the transmission system, typically analogue or digital, ensuring the transmission of signals of the same technology."

Article 29

(1) Section 43 (5) of the Media Act shall be replaced by the following provision:

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

(2) Section 44 (3) of the Media Act shall be replaced by the following provision:

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

(3) Section 45 (7) of the Media Act shall be replaced by the following provision:

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

(4) Section 48 (1) of the Media Act shall be replaced by the following provision:

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

(5) Section 48 (4) of the Media Act shall be replaced by the following provision:

"(4) The Media Council shall be entitled to authorize, for a specific time period not exceeding three years, without a tender procedure, an undertaking to provide media services for the sake of carrying out public duties. This media service provision right shall be granted by the Media Council, in its

regulatory decision, to the first applicant submitting a request for such right, based on a call for applications announced by the Media Council, provided that such media service provider meets the conditions required to perform the public duties. For the purposes of this Paragraph, the following shall be deemed as public duties:

- a) media service provision in the event of and in relation to a state of emergency, a natural disaster affecting a significant territory of the country, or an industrial disaster, or
- b) serving a community's special educational, cultural or information needs, or needs associated with a specific event affecting the given community."

(6) Section 48 (7) of the Media Act shall be replaced by the following provision:

"(7) The right may not be renewed, if

- a) the Media Council established, in its final and binding decision, that the media service provider repeatedly or seriously violated the provisions set forth in the agreement or in this Act,
- b) the media service provider had been subject previously to the sanction specified in Section 112 (1) (b) of Act I of 1996 on Radio and Television Broadcasting due to any breach of the agreement, or
- c) the media service provider is in arrears with the media service provision fee at the time of submitting the request."

(7) Section 55 (3)-(4) of the Media Act shall be replaced by the following provision:

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

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

(8) Section 56 d) dg) of the Media Act shall be replaced by the following provision:

(The tender shall contain:

basic particulars of the planned media service:)

"dg) the planned ancillary media services,"

(9) Section 56 d) dl) of the Media Act shall be replaced by the following provision:

(The tender shall contain:

basic particulars of the planned media service:)

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

(10) Section 56 g) of the Media Act shall be replaced by the following provision:

"g) a bank certificate confirming that the amount required to cover the operating costs of the planned

media service for at least the first three months of operation, excluding advertising revenue, is available for the tenderer on a separate current account,”

(11) Section 60 (1) of the Media Act shall be replaced by the following provision:

“(1) The tenders are evaluated on the basis of the principles and criteria defined in the invitation to tender. Evaluation criteria must be based on quantitative or other assessable factors, and must be in line with the subject of the tender or the material conditions of the public contract.”

(12) Section 62 (6)-(7) of the Media Act shall be replaced by the following provisions:

“(6) The Media Council shall forward the statement of claim, together with the documents and representations of the case, to the Budapest Court of Appeal within fifteen days of receipt thereof. The Budapest Court of Appeal shall assess the statement of claim for a judicial review in a board comprised of three members, within thirty days from the submission of the statement of claim by the Media Council to the Budapest Court of Appeal. No appeal may be lodged against the decision of the Budapest Court of Appeal, and no retrial or review can be requested.

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

(13) Section 63 (12) of the Media Act shall be replaced by the following provision:

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

(14) Section 65 (4) of the Media Act shall be replaced by the following provision:

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

(15) Paragraph (11) of Article 65 (11) of the Media Act shall be replaced by the following provision:

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

(16) Section 66 (4) d) of the Media Act shall be replaced by the following provision:

(Linear community media service:)

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

(17) Section 66 (5) of the Media Act shall be replaced by the following provision:

“(5) The recognition of local or regional media services as community media services shall be established through the Media Council’s decision, adopted within the framework of the tender procedure started by the Media Council pursuant to this Act regarding the usage of the media service provision rights, on the winner of the media service tender or under the Media Council’s procedure initiated specifically for this purpose, based on the Media Council’s decision. This procedure may be initiated by the media service provider following the registration of the media service in the register in accordance with the provisions of Section 42. In the course of its procedure, the Media Council shall examine whether the existing or proposed media service and the provisions of its respective media service policy satisfy the criteria laid down under Subsection (1)-(4), and issue a regulatory decision within sixty days. National media services cannot be recognized as community media services.”

(18) Section 71 (5) of the Media Act shall be replaced by the following provision:

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

(19) Section 207 (1) of the Media Act shall be replaced by the following provision:

“(1) The analogue terrestrial broadcasting right defined in Act I of 1996 on Radio and Television Broadcasting (hereinafter as: Radio and Television Broadcasting Act) and the analogue linear media service provision right using state-owned limited resources as defined in this Act can only be exercised on the basis of the public contract concluded with the Media Council, with the exception of the procedure defined under Section 48 (4) and the media services of the public media service providers as per Section 203 (32).”

(20) The following provisions of the Media Act shall be repealed:

- a) Section 207 (2)-(5);
- b) Section 207 (7);
- c) Sections 209-210 and the subheading preceding these Sections.

Section 30

(1) Section 111 (2) a)-b) of the Media Act shall be replaced by the following provision:

(Further responsibilities of the President:)

- “a) if elected as President of the Media Council, convene and chair the meetings of the Media Council;
- b) if elected as President of the Media Council, arrange for the meetings of the Media Council to be prepared;”

(2) Section 113 (1) of the Media Act shall be replaced by the following provision:

“(1) The President’s mandate shall be terminated if

- a) his/her mandate expires;
- b) he/she resigns;
- c) he/she dies;
- d) he/she is dismissed by the Prime Minister in accordance with Paragraph (2);
- e) if he/she is not elected as President of the Media Council by the Parliament within 30 days from his/her appointment, or, if such appointment takes place outside the parliamentary session, within 15 days from the starting date of the forthcoming parliamentary session.”

(3) Section 124 (1) of the Media Act shall be replaced by the following provision:

“(1) The President and the four members of the Media Council shall be elected by the Parliament – with the two-thirds majority of the votes of Members of Parliament present – for a period of nine years by simultaneous voting by list, except if the mandate of the President is terminated for any of the reasons specified under Section 113 (1) b)-e), or if the mandate of the member is terminated for any of the reasons specified under Section 129 (1) b)-f). In the latter case, the Parliament shall vote separately regarding the president or member candidate.”

(4) Section 125 (3) of the Media Act shall be replaced by the following provision:

“(3) If the mandate of the President of the Authority is terminated pursuant to Section 113 (1) b)-d), his/her mandate as President of the Media Council shall be terminated simultaneously as well. The provisions of Section 216 (8) shall be applied in the event that the mandate of the President of the Authority expires. The new President of the Authority appointed by the Prime Minister shall become a candidate for the President of the Media Council by virtue and from the moment of appointment. His/her election shall be decided upon by two-thirds of the Members of Parliament present, with a vote by list or with a separate vote in line with Section 124 (1).”

(5) Section 125 (7) of the Media Act shall be replaced by the following provision:

“(7) The duration of the mandate of the President of the Media Council corresponds to the duration of the mandate of the President of the Authority, except for the case specified under Section 216 (8).”

(6) Section 131 (2) of the Media Act shall be replaced by the following provision:

“(2) If the President of the Media Council is unable to attend a meeting of the Media Council due to being detained elsewhere or if the Media Council does not have an elected President, the powers and responsibilities of the President and representation of the Media Council shall be performed by the members of the Media Council in turn, in the way defined in the procedural rules. The member performing the tasks of the President may participate in voting.”

(7) Section 216 (8) of the Media Act shall be replaced by the following provision:

“(8) In the case specified in Section 129 (1) (a), the date of termination of the mandate of the President and members of the Media Council shall be the commencement date of the mandate of the recently elected President and members. In the case specified in Section 113 (1) (a), the date of termination of the mandate of the President of the Authority shall be the commencement date of the mandate of the recently appointed President. If the new President of the Authority is not elected as President of the Media Council by the Parliament within 30 days from his/her appointment, or, if such an appointment takes place outside the parliamentary session, within 15 days from the starting date of the forthcoming parliamentary session; the mandate of the former President of the Media Council shall continue until the election of the new President of the Media Council. If the Authority does not have an elected President, the powers and responsibilities of the President shall be performed by the President of the Media Council, or by the member of the Media Council in the case specified under Section 131 (2).”

(8) Section 125 (4) of the Media Act shall be repealed.

Section 31

(1) Section 39 of the Media Act and the previous subheading shall be replaced by the following provision:

“Programs Accessible to People with Impaired Hearing

Section 39 (1) Media service providers of audiovisual media services shall make efforts to gradually make their programs accessible also to people with impaired hearing.

(2) Public and – in respect of their media services with the highest annual average audience share – linear media service providers with significant market power shall be obliged to ensure that

a) all public service announcements, political advertisements, news programs (including traffic news, sports news and weather forecasts) and political programs, as well as programs about people with

disabilities or equal opportunities, are also accessible with Hungarian subtitles – for example through teletext – or with sign language;

b) cinematographic works, games and programs serving public service objectives defined under Section 83, during the transmission time between 06.00 and 24.00, are also accessible with Hungarian subtitles – for example through teletext – or with sign language,

ba) for at least six hours on each calendar day in 2012;

bb) for at least eight hours on each calendar day in 2013;

bc) for at least ten hours on each calendar day in 2014.

(3) The obligation stipulated under Subsection (2) b) must be performed by the media service providers specified therein throughout the entire duration of their transmission time from 2015.

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

(5) It shall be indicated in media services prior to subtitled programs that the respective program is also available in that form through the teletext service connected to the media service. The subtitled version of the text of each program shall be accurate and synchronized to the events displayed on the screen.

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

(2) Section 113 (4) of the Media Act shall be replaced by the following provision:

“(4) The Vice-President’s mandate shall be terminated, if

a) he/she resigns;

b) he/she dies;

c) he/she is dismissed by the President pursuant to Subsection (5);

d) he/she is removed by the President pursuant to Subsection (6);

e) based on the mutual agreement of the President and the Vice-President.”

(3) Section 115 (5) of the Media Act shall be replaced by the following provision:

“(5) The mandate of the Director General shall be terminated, if

a) he/she resigns;

b) he/she dies;

c) he/she is dismissed by the President pursuant to Subsection (6);

d) he/she is removed by the President pursuant to Subsection (7);

e) based on the mutual agreement of the President and the Director General.”

(4) Section 172 (4) of the Media Act shall be replaced by the following provision:

“(4) The application may also include a motion for evidence.”

(5) Section 172 (8) of the Media Act shall be replaced by the following provision:

“(8) If the Media Council holds a hearing in the course of the proceedings, it shall attempt to mediate a settlement between the parties in the course of the hearing.”

(6) Section 173 (1) of the Media Act shall be replaced by the following provision:

“(1) The parties and other stakeholders may attend the hearings as per Section 172 (8) in person or

through their representatives, may make statements, put forward their comments and submit their pieces of evidence by the end of the hearing. The hearing shall be held with the public excluded.”

(7) Section 173 (5) of the Media Act shall be replaced by the following provision:

“(5) The Media Council shall have the right to call upon or oblige the adverse client to provide data and/or put forth statements on his/her part.”

(8) Section 206 (1) a) of the Media Act shall be replaced by the following provision:

“(a) the frequency fees, the fees payable for the reservation and use of identifiers, as well as the supervisory fee for communications and postal service providers, the method and conditions of payment of these amounts, the rules of the related supervisions,”

(9) Section 29 of the Media Act shall be repealed.

Section 32

The following Section 217 shall be added to the Media Act:

“Section 217 The provisions of this Act determined by Act ... of 2012 on the Amendment of Certain Acts regarding Media Services and Press Products shall be applied to ongoing procedures as well, with the proviso that the provisions of substantive law in force at the time the given offence was committed shall be applied for offences committed prior to the entry into force of the above-mentioned provisions.”

6. Amendment of Act II of 2012 on Regulatory Offences, the Regulatory Offence Procedure and the Regulatory Offence Registry System

Section 33

The following point d) shall be added to Section 29 (2) of Act II of 2012 on Regulatory Offences, the Regulatory Offence Procedure and the Regulatory Offence Registry System (hereinafter as: Regulatory Offences Act):

(For the purposes of this Act:)

“d) ‘media content provider’ shall mean a media content provider as defined in the Act on the Freedom of the Press and the Fundamental Rules of Media Content.”

Section 34

The following point c) shall be added to Section 60 of the Regulatory Offences Act:

(Giving testimony may be refused:)

“f) by media content providers and any person employed by or engaged, in any other legal relationship intended for the performance of work, with the media content provider, regarding issues where, by testifying, they would reveal the identity of the person providing information to them regarding the media content provision activities.”

Section 35

The following Section 60/A shall be added to the subheading of the Regulatory Offences Act titled “47. The option to refuse to testify”:

“Section 60/A The exemption specified under Section 60 c) shall remain in effect even after the legal relationship it is based on has ceased to exist.”

Section 36

The following Subsection (2a) shall be added to Section 70 of the Regulatory Offences Act:

“(2a) If the holder of the object under inspection is a media content provider or a person in an employment relationship or in a work-related legal relationship with a media content provider, he/she shall not be obliged to meet the obligation specified in Subsection (2), if as a result he/she would reveal the identity of the person delivering information to him/her in connection with the media content provider’s activities. This exemption shall remain valid even after the legal relationship justifying the exemption is terminated.”

Section 37

The following Subsection (1a) shall be added to Section 76 of the Regulatory Offences Act:

“(1a) The person, who has the right to refuse to testify pursuant to Section 60 c) , shall not be obliged to deliver the object, provided that by delivering the given object he/she would reveal the identity of the person delivering the information to him/her. This exemption shall remain in effect even after the legal relationship it is based on has ceased to exist.”

7. Closing Provisions

Section 38

- (1) This Act, with the exceptions laid down in Subsection (2), shall enter into force on the day following its promulgation.
- (2) Sections 1-15, 17, 24 and 26-37 shall enter into force on the 15th day following promulgation.
- (3) This Act shall be repealed on the 16th day following its promulgation.

Section 39

- (1) Subtitle 4 of the present Act shall qualify as cardinal pursuant to Article IX (3) of the Fundamental Law.
- (2) Subtitle 5 of the present Act shall qualify as cardinal pursuant to Articles IX (3) and 23 of the Fundamental Law.