

**The Audio-visual Law no. 504 of 11 July 2002
(unofficially consolidated text)**

CHAPTER 1: General Provisions

Art.1. - For the purpose of the present law, the terms and expressions below shall have the following meaning:

1. audio-visual media service – a service under the editorial responsibility of a media service provider, whose main purpose is to provide by means of electronic communication networks programmes meant to inform, to entertain or to educate the general public. Such an audio-visual media service shall be either a television broadcast/radio broadcast as defined by indent 2, or an on-demand audio-visual media service, as defined by indent 3, and/or a media service that is an audio-visual commercial communication, as defined in indent 15 of the present article;

2. radio/television broadcasting programme service – an audio-visual linear media service provided by a broadcaster whose programmes are broadcast in a continuous sequence, irrespective of the technical means used, having a pre-established content and timetable, for simultaneous programme viewing/listening in keeping with a programme chart, provided under a certain name, and identified by a logo, for television broadcast and sound signal for radio broadcasting;

3. on-demand audio-visual service – a non-linear audio-visual media service, provided by a media service provider for the viewing of programmes at the moment chosen by the user and at his individual request on the basis of a catalogue of programmes selected by the media service provider;

4. programme – a set of moving images with or without sound constituting an individual item, identifiable by title, content, type or author, within a schedule or a catalogue established by a media service provider and whose form and content are comparable to the form and content of television broadcasting;

5. a generality television or radio service – a service that broadcasts in a cumulated way and under balanced percentages audio-visual programmes with content meant to inform, entertain or educate, in the main fields of interest and that addresses majority part of the public;

5¹. public television and radio services – television programme services provided by the Romanian Television Broadcasting Corporation and radio programme services provided by the Romanian Radio Broadcasting Corporation;

6. television or radio community service – the service that broadcasts audio-visual programmes dedicated to the public of a specific community;

7. thematic television or radio service – the service that broadcasts audio-visual programmes mainly dedicated to a specific topic and that addresses a certain part of the public;

8. *teletext service* – the entire amount of information provided to the public under text form, encoded within the image signal, which may be accessed by means of a TV set standard decoder at the moment and for a time lapse and content chosen by the receiver;

9. *videotext service* – the entire amount of messages provided to the public under text form or graphic signs, during a programme chart or a catalogue from an audio-visual media service provider under the form and content of TV programme transmissions or similar to those.

10. *retransmission* - the interception and simultaneous transmission of linear audio-visual media services provided by radio-broadcasters and intended to be received by the public by any technical means, in their entirety and without any alteration of their content;

11. *editorial responsibility* - the exercise of effective control both over the selection of the programmes and over their organization either in a chronological programme chart, in the case of television broadcasts, or in a catalogue, in the case of on-demand audio-visual media services. For the purpose of the present law, editorial responsibility does not necessarily imply in itself another type of legal liability for the content of the services provided;

12. *media service provider* - the natural or legal person that has editorial responsibility for the choice of the audio-visual content of the audio-visual media service and that determines the manner in which it is organized;

13. *broadcaster* - an audio-visual media service provider in the field of television and/or radio services;

14. *service distributor* – any person that makes and provides the public with an offer of retransmitted programme services to be received based on a contract signed with broadcasters or with other distributors;

15. *audio-visual commercial communication* - regards sound messages or images with or without sound, which are designed to promote, directly or indirectly, the goods, services or image of a natural or legal entity pursuing an economic activity. Such images accompany or are included in a programme in return for payment or for similar consideration or for self-promotional purposes. Forms of audio-visual commercial communication include radio and television advertising, sponsorship, teleshopping, product placement and other types of advertising;

16. *surreptitious audio-visual commercial communication* - the representation in words or pictures of goods, services, name, trade mark or activities of a producer of goods or a provider of services in programmes when such representation is intended by the media service provider to serve as advertising and might mislead the public as to its nature. Such representation shall, in particular, be considered as intentional if it is done in return for payment or for similar consideration;

17. *television advertising* - any form of announcement broadcast whether in return for payment or for similar consideration or for self-promotional purposes by a public or private undertaking or natural person in connection with a trade, business, craft or profession, in order to promote the supply of goods or services, including immovable property, rights and obligations;

18. *subliminal advertising* - any kind of advertising that employs such stimuli that by being too faint to be perceived consciously, might exert an influence upon the economic behaviour of the public;

19. *sponsorship* - any contribution made by a public or private undertaking or natural person not engaged in providing audio-visual media services or in the production of audio-visual works, to the financing of audio-visual media programmes with a view to promoting its name, its trade mark, its image, its activities or its products;

20. *teleshopping* - the direct offer broadcast to the public with a view to the supply of goods or services, including immovable property, rights and obligations, in return for payment;

21. *product placement* - any form of audio-visual 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 programme, in return for payment or for similar consideration;

22. *television promotion* - type of advertising made by programme presenters, by inserting in the programme certain scenes meant to promote one or more products or services. These scenes introduced in the programme are being kept separate from the other parts of the programme by acoustic and/or optical means;

23. *interactive advertising* - broadcasting technique for television advertising allowing viewers to choose access to advertising by means of non-linear audio-visual media service, at the moment, for the time lapse and the advertising content decided by viewers;

24. *split screen advertising* - broadcasting technique for television advertising, including self-promotion or promotion of elements that identify the sponsor. This technique allows for simultaneous broadcasting of the editorial content and of advertising content or of a message regarding the sponsor, the latter being kept separate from the rest of the programme by acoustic and/or optical means, so that their nature shall be obvious to the public;

25. *virtual advertising* - broadcasting technique for television advertising which allows image processing, during broadcast of certain events, by replacing images of the advertising on the panels inside the place where the events unfold with advertising messages introduced by broadcasters, or by overlapping new images with such messages in any part of the image transmitted;

26. *virtual sponsorship* - technique enabling the broadcasting of sponsor's identification elements. This technique allows image processing during broadcast of certain events, by replacing images of the advertising on the panels inside the place where the events unfold with messages regarding sponsors, introduced by the broadcaster, or by overlapping new images with such messages in any part of the image transmitted;

27. *scheduled duration* - time lapse which includes the effective duration of the programme or of part of the programme section, and the television advertising time broadcast, as the case may arise, during such programme;

28. exclusivity rights – rights gained by a broadcaster, on grounds of a contract, from an event organizer or from the owner or administrator of the location where the event unfolds, from the authors or other owners' rights, with a view to exclusive television broadcasting by the respective broadcaster, on limited geographical area;

29. major importance event – any event which may be of interest to an important part of the public and is included in the list approved by the Government Decision following the National Audio-visual Council proposal;

30. audio-visual licence – the legal document issued in keeping with the National Audio-visual Council decision which grants a broadcaster under Romanian jurisdiction the right to broadcast, in a certain area, a certain programme service; the audio-visual licence may be analogue or digital licence, according to the technical means of transmission;

31. broadcasting licence - the legal document whereby the National Authority for Administration and Regulation in Communications grants the holder of analogue audio-visual licence the right to use, for a certain period of time, one or more radio frequencies, as the case may be, in accordance with the analogue audio-visual licence;

31¹. digital terrestrial system - the television and/or radio system where the signals are broadcast from the broadcasting stations to end-users by terrestrial radio means under the form of a multiplex, in keeping with the digital radio/television audio/video standard;

31². licence for the use of radio frequencies in a digital terrestrial system - the administrative document which grants to a natural or legal person, authorised under the law by the National Authority for Management and Regulation in Communications to provide public electronic communications networks and publicly available electronic communication services, the right to use for a specific period of time the radio frequencies, in a digital terrestrial system;

32. retransmission authorisation - the legal document issued in accordance with the National Audio-visual Council decision, granting the right to retransmit on the Romanian territory a programme service which does not fall within the provisions of Article 75(1) and (2);

33. repealed by Law no.333/2009 on approving the Government Emergency Ordinance no.181/2008.

34. digital terrestrial multiplex – the package of radio and television programme services, supplementary multimedia services and other associated identification data transmitted from the broadcasting stations to the end-users by terrestrial radio way, using digital modulation within the limits of a standard television channel/block of frequency, with national, regional or local coverage, as the case may be;

35. radio/television multiplex operator - the Romanian or foreign, legal or natural person, holding the licence for the use of radio frequencies in digital terrestrial system and having the right, under the law, to operate a network / a radio or television broadcasting station with a view to broadcasting a programme or a

package of radio or television programmes, multimedia services and other associated identification data, multiplexed;

36. encoding - the method of presenting the information in electronic format which allows for accessing the information only by means of a code;

37. encrypting - means of changing a flow of information in electronic format, according to a pre-established formula, with a view to protecting it during transmission in unsafe media, where the initial information may be rebuilt only by using an adequate decoding formula;

38. conditional access system - any technical means or device whereby access in an understandable way to a protected broadcasting service of radio or television programmes may be restricted, based on a subscription or on another form of previous individual authorisation.

(2) For the purpose of the present law, the definitions in art. 2 of the Government Decree nr.34/2002, regarding access to electronic communications public networks and to their infrastructure, as well as their being interconnected, as stipulated by Law no. 527/2002 with further modifications and completions are also applicable.

Art.1¹. - (1) For the purpose of the present law, European works means the following:

a) works originating in the Member States of the European Union;

b) works originating in European third States - party to the Council of Europe European Convention on Transfrontier Television and fulfilling the requirements under indent (3);

c) works co-produced under agreements related to the audio-visual sector, concluded between the European Community and third countries that meet the requirements defined in each of those agreements.

(2) Definitions under paragraph (1) letters b) and c) shall apply to the works originating in Member States not being the subject of discriminatory measures in the third country concerned;

(3) Works referred in paragraph (1) letters a) and b) are mainly made with the authors and workers residing in one or more of the respective states provided that they comply with one of the following conditions:

a) they are made by one or more producers established in one or more of those states;

b) the production of such works is supervised and actually controlled by one or more producers established in one or more of those states;

c) the contribution of the 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 the respective states.

(4) Works which are not European works within the meaning of paragraph (1), but that are produced under bilateral co-production treaties concluded between Member States and third countries shall be deemed European works provided that the co—producers from the Community supply a majority share of

the total cost of production and that the production is not controlled by one or more producers established outside the territory of the Member States.

Art.2. - (1) The rights of any audio-visual media service provider under Romanian jurisdiction to broadcast and to retransmit any audio-visual media service are recognized and guaranteed by the present law.

(2) For the purpose of this law, an audio-visual media service provider under Romanian jurisdiction is:

(a) any audio-visual media service provider established in Romania in accordance with the provisions of paragraph (3);

(b) any audio-visual media service provider that fulfils the conditions under paragraph (4).

(3) For the purpose of the present law, a media service provider shall be deemed to be established in Romania if it fulfils one of the following conditions:

a) the media service provider has its main headquarters in Romania, and the editorial decisions regarding the audio-visual media services are taken in Romania;

b) the media service provider has its main headquarters in Romania and a significant part of the workforce involved in the activity of audio-visual media service provision operates in Romania.

c) the editorial decisions on the audio-visual media services are taken in Romania and a significant part of the workforce involved in the pursuit of the audio-visual media service activity operates in Romania;

d) if the workforce involved in the pursuit of the audio-visual media service activity operates in Romania and also in another Member State of the European Union and, if, upon applying the criteria provided for at letters b) and c), it cannot be ascertained if a significant part of the workforce involved in the pursuit of the audio-visual media service activity operates in Romania or in the respective Member State of the European Union, then the media service provider shall be deemed to have its headquarters in Romania if its main headquarters is in Romania.

e) if a significant part of the workforce involved in the pursuit of the audio-visual media service activity operates neither in Romania nor in other Member State of the European Union, the media service provider shall be deemed to have its headquarters in Romania if it began its activity in Romania and currently maintains a stable and effective link with the economy of Romania.

(4) Media service providers to whom the provisions of paragraph (3) are not applicable shall be deemed to be under Romania's jurisdiction in the following cases:

(a) they use a satellite up-link belonging to Romania;

(b) although they do not use a satellite up-link belonging to Romania, they use a satellite capacity belonging to Romania.

(c) they use short wavelength broadcasting stations to transmit programmes in other countries.

(5) If the question as to which Member State has jurisdiction cannot be determined in accordance with paragraphs (3) and (4), then the media service provider shall be deemed to be established outside Romania's jurisdiction.

Art.3. - (1) Political and social pluralism, cultural, linguistic and religious diversity, information, education and public entertainment are accomplished and ensured by the broadcasting and the retransmission of programme services, with the observance of the freedoms and fundamental rights of the person.

(2) All audio-visual media service providers must ensure the objective information of the public by correctly presenting the facts and events and they must favour the free formation of opinions.

(3) According to the law, the liability for the content of the broadcast programme services, including audio-visual commercial communications, is incumbent on the audio-visual media service provider.

Art.4. - The right of each person to freely receive audio-visual media services offered to the public by audio-visual media service providers under the jurisdiction of Romania and of the Member States of the EU is acknowledged and warranted by this Law.

Art.5. - (1) This Law also acknowledges and guarantees the freedom to provide on Romania's territory audio-visual media services by the providers under the jurisdiction of Member States of the EU.

(2) The option made by any person in regard to programmes and services offered by audio-visual media service providers or by service distributors are confidential and may not be disclosed to a third party without the consent of the respective person.

Art.6. - (1) Censorship of any kind upon audio-visual communication is forbidden.

(2) Editorial independence of audio-visual media service providers is acknowledged and warranted by this Law.

(3) Any kind of interference of public authorities or any Romanian or foreign natural or legal persons in the content, shape or illustration methods of elements comprised in the audio-visual media services is forbidden.

(4) The decisions and the norms issued by the National Audio-visual Council with a view to applying the provisions of the present Law and observing the legal provisions, as well as the norms on human rights stipulated in the conventions and treaties ratified by Romania are not deemed interference.

(5) Provisions of professional conduct codes adopted by journalists and audio-visual media service providers applied within self-regulation mechanisms and structures of their activity are not deemed interference, unless they infringe the legal provisions in force.

Art.7. - (1) The confidential nature of the information sources used in conceiving or issuing news, shows or other elements of the programme services is warranted by this Law.

(2) Any journalist or programme creator is free not to disclose the data that could identify the source of information obtained in direct connection to his professional activity;

(3) Information able to identify a source is deemed the following:

- a) the name and personal data, as well as the voice or image of a source;
- b) the concrete circumstances under which a journalist gets information;
- c) the unpublished part of the information supplied by the journalist's

source;

d) the personal data of the journalist or radio-broadcasters related to their activity of obtaining the broadcasted information.

(4) The confidential nature of the information sources obliges in return to assume the liability for the reality of the supplied data.

(5) Persons who, by virtue of their professional relations with journalists, learn about information that could identify a source by gathering, editorial treating or publishing of such information will benefit from the same protection as journalists do.

(6) The disclosure of an information source may be ordered by law courts insofar it is necessary in order to protect national safety or public order and insofar such disclosure is necessary to solve a case judged at a law court when:

a) alternative measures of similar effect, to the disclosure, do not exist or have been exhausted;

b) the legitimate interest for disclosure exceeds the legitimate interest for non-disclosure.

Art.8. - (1) Authorised public authorities shall ensure upon request:

a) journalists' protection in case they are subject to pressures or threats that could effectively impede or restrict the free exertion of their profession;

b) the protection of the headquarters and offices of the radio-broadcasters in case they are subject to threats that could impede or affect the free development of their activity.

(2) The protection of journalists and of headquarters or offices of radio-broadcasters in the terms of paragraph (1) may not become a pretext to prevent or restrict the free exertion of their profession or activity.

Art.9. - Searches unfolded at radio-broadcasters' head offices or precincts shall not prejudice the free expression of journalists nor shall suspend programme broadcasting.

Chapter 2: The National Audio-visual Council

Art.10. - (1) The National Audio-visual Council, hereinafter referred to as the Council, is a public autonomous authority under the control of the Parliament and the warrantor of the public interest in the field of audio-visual communication.

(2) The National Audio-visual Council is the unique regulatory authority in the field of audio-visual media services under the terms of, and compliance with the provisions of this Law.

(3) The National Audio-visual Council as the warrantor of the public interest in the field of audio-visual communications shall provide for:

a) the observance of a pluralist expression of ideas and opinions in the audio-visual media services content transmitted by media service providers under the jurisdiction of Romania;

b) the pluralism of the information sources of the public;

c) favouring free competition;

d) a fair balance between the national coverage programme services and the local, regional or thematic services;

e) the protection of human dignity, of the right to one's own image as well as children's protection;

f) the protection of the Romanian culture and language, as well as of the culture and languages of national ethnic minorities;

g) the transparency in organizing, operating and financing mass communication means in the audio-visual sector;

h) the transparency of own activities;

i) the increase of the level of public opinion sensitivity regarding the efficient and safe use of audio-visual media services by promoting and developing media education for all social categories;

j) the encouragement of co-regulation and self-regulation in the audio-visual field;

k) the encouragement of audio-visual media service providers with a view to ensuring conditions that the provided services are available to persons with hearing or seeing disabilities;

l) the monitoring of audio-visual programme services and audio-visual media services, including those on-demand, with a view to their compliance with the legal provisions in this field.

(4) The National Audio-visual Council exerts its control right upon the content of the programmes offered by the audio-visual media service providers only after the public communication of such programmes.

(5) The control exerted by the Council on the content of the programme services offered by the audio-visual media service providers and on the offer of programme services ensured by the service distributors shall be accomplished on a periodical basis and whenever the Council deems it necessary or whenever a complaint is forwarded with regard to a provider's failure to observe the legal provisions, the regulation norms in the field or the liabilities recorded in the audio-visual licence.

(6) The Council must notify the competent authorities in regard to the occurrence or existence of practices restricting competition, to the abuse of the dominant position or to economic concentrations, as well as to the existence of any other infringement of the legal provisions that does not fall within its competency.

Art.11. - (1) The Council is made up of 11 members and it is assigned by the Parliament, following the recommendations made as follows:

- a) The Senate: 3 members;
- b) The Chamber of Deputies: 3 members;
- c) The President of Romania: 2 members;
- d) The Government: 3 members.

(2) The proposals assign the candidate for the position of a titleholder, as well as the candidate for the position of a deputy and they shall be forwarded to the standing offices of the two Chambers within 15 days since the date of commencing the assignment procedure.

(3) The standing offices of the two Chambers forward the proposals to the specialised standing commissions with a view to the candidates' hearing in joint session.

(4) After the hearing, the specialised standing commissions draw up a joint notification which they present to the joint session of the Chamber of Deputies and of the Senate.

(5) Candidateship shall be approved by the vote of the majority of deputies and senators, provided that the two Chambers are in quorum.

(6) The members of the Council are the warrantors of the public interest and do not represent the authority that proposed them.

(7) The duration of the mandate of the members in the Council is of 6 years and their appointment shall be made upon schedule, according to the expiry of the mandate.

(8) When a place becomes vacant in the Council before the expiry of the mandate, it shall be occupied by a deputy until the expiry of the initial 6-year mandate.

Art.12. - (1) The members in the Council have the position of a public office assimilated to the position of a State Secretary.

(2) The position of a member in the Council is incompatible with any other public or private office, save for didactical ones, provided they do not result in conflicts of interests.

(3) The members in the Council may not be members of political parties or other political structures while exerting their mandate.

(4) The members of the Council may not directly or indirectly hold shares or social parts in companies with activities in fields where they would be in conflict of interests with the capacity of a member in the Council.

(5) Members of the Council who at the moment of appointment are undergoing one of the situations stipulated in paragraphs (2) to (4) dispose of a maximum 3-month term to renounce the respective positions or shares, a period wherein they are not entitled to vote in the Council.

(6) In case of failing to observe the provisions of this Article, the concerned person is rightfully dismissed and his position becomes vacant and is to be occupied by the deputy upon the proposal of the specialised standing commission of the Parliament.

Art.13. - (1) The members in the Council may be revoked upon the proposal of the specialised commissions of the Parliament in the following situations:

a) in case it is impossible to exert the functions for a period longer than 6 months;

b) in case of a penal conviction applied by a final court decision.

(2) With a view to applying the provisions from paragraph (1), The Council notifies the Parliament.

Art.14. - (1) The Council is managed by a President, assimilated to the position of a Minister, appointed by the vote of the Parliament from among the members of the Council, on their proposal. The mandate is of 6 years.

(2) In the absence of the President, the management of the Council is ensured by the Vice-President.

(3) The Vice-President is elected by secret vote by the Council, in the presence of at least 9 of its members, for a 6-year mandate.

(4) If the position of President or of Vice-President becomes vacant, a new President, respectively a Vice-President, will be elected in keeping with the provisions of paragraphs (1) and (3).

Art.15. - (1) The Council issues decisions, instructions and recommendations in the presence of at least 8 members and with the vote of at least 6 members in order to fulfil its functions and attributions incumbent thereupon according to this Law.

(2) The Council meetings are public, save the case when the President is proposed and the Vice-President is elected according to provisions of Article 14(1) and (3).

(3) The vote is always open, save the case stipulated in Article 14(1) and (3).

(4) The expression of each open vote is accompanied by its motivation.

(5) Due to their normative character, the Decisions of the Council, including their motivation, are published in the Romanian Official Journal, Part I.

(6) The Decisions of the Council, including their motivation, other than those specified at paragraph (5), as well as the instructions and recommendations issued by the Council, shall be made public.

(7) Normative documents issued by the Council may be contested at the competent administrative court by any person who considers himself prejudiced thereby.

(8) Decisions having an individual character are notified to whom may be concerned and come into force since their notification, if there are no other specifications.

Art.16. - (1) The activity of the Council is financed from the state budget.
(2) The President of the Council is a credit principal.

Art.17. - (1) The Council is authorised:

- a) to establish the conditions, procedure and criteria for granting analogue and digital audio-visual licences;
- b) to establish the procedure for granting the retransmission authorisation;
- c) to issue analogue and digital audio-visual licences and retransmission authorisations for the operating of radio and TV programme services and to issue the audio-visual authorisation decisions;
- d) to issue, with a view to the application of the provisions under this Law, regulatory normative decisions in order to accomplish its attributions as expressly stipulated in this Law and mainly in regard to:
 - 1. the ensuring of accurate information of the public;
 - 2. the monitoring of the correct expression in the Romanian language and in the languages of national minorities;
 - 3. the assurance of equidistance and pluralism;
 - 4. the transmission of official information and communiqués of public authorities regarding calamities, states of necessity or emergency, state of siege or armed conflict;
 - 5. the children's protection;
 - 6. the defence of human dignity and of the right to one's own image;
 - 7. the non-discriminatory policies regarding race, sex, nationality, religion, political beliefs and sexual orientation;
 - 8. the exertion of the right to reply, rectification and other equivalent remedies;
 - 9. audio-visual commercial communications, including advertising, product placement, political campaign advertising and teleshopping;
 - 10. sponsorship;
 - 11. rules and principles for unfolding electoral campaigns and those for referendum, in audio-visual programme services, within the frame and for the enforcement of the electoral legislation;
 - 12. the cultural responsibilities of audio-visual media service providers;
- e) to draw up instructions and issue recommendations for the development of the activities in the field of audio-visual communication;

(2) The Council is consulted in the process of defining Romania's position and it may participate, by means of its representatives, in the international negotiations in the audio-visual field.

(3) The Council is consulted in regard to all draft normative acts whereby the activities in the field of audio-visual communication or related thereto are regulated;

(4) The Council is authorised to request and receive from providers and distributors of audio-visual programme services any necessary data, information and documents in order to accomplish its attributions, having the obligation to keep confidential data that are not of public nature.

Art.18. - (1) The Council draws up its own organizing and operating regulation which is to be approved by the vote of the majority of its members.

(2) With a view to exerting its attributions, the Council sets up its own operational structure, including territorial control and monitoring structures, as stipulated in the organization and operating regulation.

(3) The specialised personnel of the Council are composed of civil servants and personnel employed with an individual labour contract, salaried according to the provisions of Article 98.

(4) The civil servants of the Council may not be members in the board of directors of the providers and distributors of audio-visual programme services and they may not exert positions or hold shares or social parts in a company holding an audio-visual licence.

(5) For the purpose of applying the provisions from paragraph (4), civil servants within the Council shall submit with the President of the Council a conformation statement on own liability.

Art.19. - (1) With a view to establishing the strategy in the field of radio-electric frequency use, of the National Plan for radio-electric frequencies allotted to the audio-visual communication and for the purpose of analysing the issues related to the use of the radio-electric spectrum destined to audio-visual communication, as well as those regarding the new technological developments with an impact upon audio-visual communication, a Mixed Consultative Commission composed of 3 members proposed by the Council and 3 members proposed by the National Regulatory Authority for Communications¹ is established.

(2) The Mixed Consultative Commission adopts its own organizing and operating regulation that shall be approved by the management of the two authorities.

¹ Within Law no.504/2002, except for art.19(1), art.67 and art.69(1), National Authority for Management and Regulation in Communications shall be read instead of National Regulatory Authority for Communications.

Art.20. - (1) The activity of the Council is analysed by the Parliament, upon debating the annual report, which is presented for the previous year, and whenever the specialised commissions of the Parliament request from the President of the Council specific reports.

(2) The annual activity report of the Council is forwarded to the specialised commissions of the Parliament until April 15th.

(3) When the specialised commissions vote down the annual report of the Council, the latter must produce to the reunited commission a programme of substantial measures for the remedy of the shortcoming within 30 days, a programme that shall be subjected to the debate and approval of the specialised commissions of the Parliament.

(4) The report of the specialised commissions regarding the annual activity report of the Council and, as the case may arise, the programme of measures, shall be subjected to the debate of the reunited Chambers of Parliament, in the presence of the members of the Council.

(5) The members of the Council must appropriate the conclusions resulting from the debates and assume the liability for fulfilling the programme of measures established by the decision of the Parliament.

(6) The report of the specialised commissions refers to the lawfulness of the Council's activities, as well as to the accuracy and transparency of the financial operations.

(7) In fulfilling its mission of a guarantor of public interest, the Council must publish periodical reports regarding the way it exerts its attributions.

CHAPTER 3: THE CONTENT OF THE AUDIO-VISUAL COMMUNICATION

Art.21. – (1) Major importance events may be exclusively broadcast only if the transmission does not deprive a significant part of the public from Romania of the possibility of watching them live or in a deferred free television.

(2) The list of events considered of major significance shall be drawn up by Government Decision following the Council's proposal and it shall be communicated to the European Commission; subsequent amendments shall follow the same procedure. During the period of Romania's pre-accession to the EU, the list shall produce its effects after the decision has been published in the Romanian Official Journal, Part I.

(3) The Government decision stipulated in paragraph (2) specifies the percentage of the population that represents a significant part of the public; the same decision also establishes for each major importance event whether its live coverage may be performed entirely or partially, or, where appropriate for the public interest, whole or partial deferred coverage shall be chosen.

(4) The exercise by radio-broadcasters under the jurisdiction of Romania of the exclusive rights to broadcast certain events declared by a Member State of the European Union as being of major importance and which are comprised in the list published in the Official Journal of the European Union shall not deprive a

significant part of the public from the respective state from the possibility to watch those events live or deferred, in compliance with the provisions established by that member state.

Art.22. - (1) Since the date of accession, any radio-broadcaster under the jurisdiction of Romania shall reserve to European works a majority proportion of its transmission time, excepting the time dedicated to news, sport events, games, advertising, as well as teletext and teleshopping services.

(2) Until the date of accession, a significant proportion shall be reserved to Romanian audio-visual works. This proportion, having regard to the broadcaster's informational, educational, cultural and entertaining responsibilities to its viewing public, shall be achieved progressively, on the basis of suitable criteria.

(3) The Council shall monitor the enforcement of the provisions specified in paragraphs (1) and (2).

(4) The complete mechanisms of the implementation measures shall be established by the Council.

Art.23. - (1) On-demand audio-visual media services promote, where practicable and by appropriate means, the production of, and access to, European works. Such promotion could relate, *inter alia*, to the financial contribution made by such services to the production and rights acquisition of European works or to the percentage and/or prominence of European works in the catalogue of programmes offered.

(2) The Government, by means of The National Audio-visual Council shall report to the Commission no later than 19 December 2011 and every four years thereafter on the implementation of the provisions in paragraph (1).

Art.24. - (1) Any radio-broadcaster under the jurisdiction of Romania shall reserve at least 10% from its transmission time, excluding the time dedicated to news, sport events, games, advertising, as well as teletext and teleshopping services, or alternately at least 10% from its programming budgets for European works created by producers who are independent broadcasters.

(2) An adequate proportion of recent works, respectively works transmitted within five years of their production, shall be included in the European works created by independent producers.

(3) A producer shall be deemed to be independent from a certain radio-broadcaster if its activity of creating certain audio-visual productions is financially supported within an amount accounting for less than 25% from the same sources as the programme service within which its production is broadcast and if it holds less than 25% from the capital of the company that finances the concerned programme service.

Art.25. - Provisions of arts.22 and 24 shall not apply to programme services that are intended for local audiences, covered by broadcasters that are not part of a national network.

Art.26 - The broadcasting of a cinema work may be performed only during certain periods stipulated in the contracts concluded with the holders of copyrights.

Art.26¹. – (1) With a view to encouraging and facilitating a pluralist expression of opinion trends, broadcasters shall cover the election campaigns in a fair, balanced and unbiased way.

(2) With a view to correctly implement provisions of paragraph (1), the Council shall issue compulsory rules, shall control the compliance with the legal provisions and with the provisions under the issued rules and shall sanction their infringement.

CHAPTER 3¹: AUDIO-VISUAL COMMERCIAL COMMUNICATIONS

Art.27. - (1) Television advertising and teleshopping **shall be easily recognizable and distinguishable from the editorial content.** Without prejudice to the use of new advertising techniques, television advertising and teleshopping shall be kept quite distinct from other parts of the programme by optical and/or acoustic and/or spatial means.

(2) Isolated advertising and teleshopping spots, other than in transmissions of sport events, shall remain an exception and may be broadcast only in cases established as such, by the Council.

Art.28. - (1) Advertising spots, including self-promoting or teleshopping ones, may be included only between programmes. If the terms stipulated in paragraphs (4) to (7) are observed, advertising or teleshopping spots may be also included during a programme as long as:

a) the integrity and value of the respective programme are not prejudiced, taking into account natural breaks and the duration and the nature of the programme;

b) the copyrights are not prejudiced.

(2) In their capacity of public services, the Romanian Radio-broadcasting Company and the Romanian Television Company may insert advertising spots, including self-promoting or teleshopping ones, only between programmes.

(3) Advertising and teleshopping spots may be inserted only between the parts or during breaks of the programmes made from independent parts or within the broadcasting of sport competitions or of other events or similarly structured programmes comprising breaks.

(4) The broadcasting of news programmes and of audio-visual works, such as feature films or films created for television, except series, serials, and

documentaries, may be interrupted by television advertising and/or teleshopping spots only once for a scheduled duration of the programme of at least 30 minutes.

(5) The transmission of children's programmes may be interrupted by television advertising and/or teleshopping once for each scheduled period of 30 minutes, provided that the scheduled duration of the programme is at least of 30 minutes.

(6) Inserting advertising or teleshopping during the transmission of a programme that comprises a religious sermon shall be interdicted.

(7) repealed by Law no.333/2009 on approving the Government Emergency Ordinance no.181/2008.

Art.29. - (1) Audio-visual commercial communications provided by audio-visual media service providers shall comply with the following requirements:

a) they shall be easily recognizable as such and surreptitious audio-visual commercial communications shall be prohibited;

b) audio-visual commercial communications shall not use subliminal techniques;

c) audio-visual commercial communications shall not prejudice respect for human dignity;

d) audio-visual commercial communications shall not include any discrimination based on race, ethnic origin, nationality, religion, belief, disability, age or sexual orientation;

e) audio-visual commercial communications shall not prejudice respect for viewers' or listeners' religious or political beliefs;

f) audio-visual commercial communications shall not encourage behaviour prejudicial to population's health or safety;

g) audio-visual commercial communications shall not encourage behaviour prejudicial to the environment;

h) audio-visual commercial communications shall not encourage an indecent or immoral conduct;

i) audio-visual commercial communications shall not promote directly or indirectly occult practices.

(2) Audio-visual commercial communications shall not cause moral, physical or mental detriment to minors and especially they shall not:

a) directly exhort minors to buy a product or a service by exploiting their inexperience or credulity;

b) directly encourage minors to persuade their parents or others to purchase the goods or services being advertised;

c) exploit the special trust minors place in parents, teachers or other persons;

d) unreasonably show minors in dangerous situations.

(3) Audio-visual commercial communications with surreptitious commercial content shall be prohibited.

(4) Audio-visual commercial communications for alcoholic beverages shall not encourage immoderate consumption of such beverages and shall not be aimed specifically at minors.

(5) Any form of audio-visual commercial communication for cigarettes and other tobacco products shall be prohibited.

(6) Audio-visual commercial communications for medical products and treatment available only on prescription shall be prohibited.

(7) Audio-visual commercial communications that prejudice consumers' legal interests shall be prohibited.

(8) Audio-visual media service providers are encouraged to develop codes of conduct regarding inappropriate audio-visual commercial communications, especially those accompanying or included in children's programmes, of foods and beverages containing substances with a nutritional or physiological effect, in particular those such as fat, trans-fatty acids, salt and sugar, that are not recommended in a balanced alimentary diet.

Art.30. – repealed by art.I indent 19 of the Government Emergency Ordinance no.181/2008

Art.31. - (1) Product placement shall be prohibited.

(2) By way of derogation from paragraph (1), product placement shall be admissible:

a) in cinematographic works, films and series made for audio-visual media services, sports programmes and entertainment programmes;

b) where there is no payment but only the provision of certain goods or services free of charge, such as production props and prizes, with a view to their inclusion in a programme.

(3) The derogation provided for in paragraph (2) letter a) shall not apply to children's programmes.

(4) Programmes that contain product placement shall meet at least all of the following requirements:

a) their content and, in case of television broadcasting, their scheduling shall in no circumstance 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, in particular by making special promotional references to those goods or services;

c) they shall not give undue prominence to the products in question;

(5) Programmes where product placement is inserted shall contain clear information on it and shall be appropriately identified at the start and at the end of the programme, and when a programme resumes after an advertising break, in order to avoid any confusion on the part of the viewer.

(6) Requirements in paragraph (5) shall not apply to the programme that has neither been produced nor commissioned by the media service provider itself or by a company affiliated to the media service provider.

(7) Product placement of tobacco products or cigarettes or other products of undertakings whose principal activity is the manufacture or sale of such products, as well as product placement of medical products or treatments available only on prescription is forbidden.

*) The provisions of paragraphs (1) to (5) shall apply only to the programmes produced after 19 December 2009.

Art.32. - Advertising and teleshopping for alcoholic beverages shall observe the following terms:

a) shall not be addressed to minor children or not show minors consuming alcoholic beverages;

b) shall not establish a link between the alcohol consumption and the improvement of physical and psychical qualities or the capacity of driving vehicles;

c) shall not create the impression that the consumption of alcohol enables social or sexual performances;

d) shall not suggest the idea that alcohol has therapeutic qualities or that it is a stimulant, sedative or a means to solve personal problems;

e) shall not encourage the over-consumption of alcohol or set in a negative light the moderate consumption of, or refrain from the consumption of alcohol beverage;

f) shall not indicate that a high degree in alcohol represents a quality of beverages.

Art.33. – repealed by art.I indent 21 of the Government Emergency Ordinance no.181/2008

Art.34. - (1) Sponsored programmes shall comply with the following requirements:

a) their content and their scheduling shall by no means be influenced by the sponsor so as to affect the liability and editorial independence of the media service provider towards the concerned programmes;

b) the mention of a sponsorship agreement made known by the name or brand and/or sponsors' products/services shall be distinctly shown at the beginning, during the respective programme and at the end of the programme;

c) they shall not directly encourage the purchase or rental of the sponsor's or a third party's products or services, in particular by special promotional references to such products or services.

(2) No programme may be sponsored by natural or legal persons whose main activity is the manufacturing or trading of cigarettes and of other tobacco products.

(3) The sponsorship of audio-visual media services or programmes by natural or legal persons whose activities include manufacturing or trading of medical products or treatments may be performed by promoting the sponsor's name, mark and/or any other distinctive element of the sponsor or of certain of its medical products or services, save the name or image of the medical products or medical treatments available only on prescription.

(4) Sponsorship of programme services as a whole, as well as that of news programmes and programmes dedicated to analysis and debates on political and/or current economical topics is forbidden.

Art.35. – (1) The proportion of television advertising spots and teleshopping spots within a given one-hour interval shall not exceed 20%, 12 minutes respectively; in case of public television, their duration shall not exceed 8 minutes from the given time of any hour.

(2) Provisions of paragraph (1) shall not apply to announcements made by the broadcaster in connection with its own programmes and ancillary products directly derived from those programmes, sponsorship announcements and product placement.

Art.36. – (1) Windows dedicated to broadcasting of teleshopping by a programme service that is not exclusively dedicated to teleshopping shall have an uninterrupted duration of minimum 15 minutes.

(2) These must be clearly delimited and identifiable by adequate optic or acoustic signals.

(3) Teleshopping shall not instigate minors to ask for the purchase or rental of goods or services.

(4) Teleshopping for medical products which are subject to a marketing authorisation specified in title XVII, chapter III, section 1 of the Law no.95/2006 regarding the reform of public health, with the subsequent amendments and completions, as well as teleshopping for medical treatment shall be prohibited.

Art.37. - (1) The provisions of this Law shall adequately apply to the programme services exclusively dedicated to advertising and teleshopping, as well as to programme services dedicated exclusively to self-promotion.

(2) Provisions of arts.22 to 24 regarding the promotion of European works and works of independent producers, as well as provisions of arts.28 and 35 shall not apply to programme services in paragraph (1).

Art.38. - The Council is authorised to establish other conditions than those stipulated by art.28 paragraphs (4)-(7) and art.35 regarding television programme services exclusively dedicated to the national territory and that cannot be directly or indirectly received by the public in one or more other EU Member States.

CHAPTER 3²: MINORS' PROTECTION

Art.39. - (1) The transmission of programmes, within radio and television services, that may seriously impair the physical, mental or moral development of minors, especially programmes containing pornography or unjustifiable violence is forbidden.

(2) The broadcasting of radio and television programme services that are likely to impair the physical, mental or moral development of minors may be performed only if, by selecting the time of the broadcast, by means of encoding or as an effect of other systems of conditional access, it is possible to ensure that under normal conditions minors in the transmission area do not have audio or video access to the respective programmes.

(3) The unencoded transmission or the transmission without other technical measures for restricting the access to the programmes stipulated in paragraph (2) may be performed only after presenting an acoustic or graphic warning, whilst ensuring the presence of a warning visual symbol during the entire show.

Art.39¹. - Programmes within on-demand audio-visual media services which might impair the physical, mental or moral development of minors shall only be made available only if restriction measures of access are ensured in such a way that minors will not normally hear or see such programmes.

CHAPTER 3³. THE RIGHT OF REPLY

Art.40. - The transmission of programmes comprising any form of incitement to hate due to race, religion, nationality, gender or sexual orientation is forbidden.

Art.41. - (1) Any natural or legal person, regardless of nationality, whose legitimate rights or interests, in particular reputation and good name have been damaged by an assertion of incorrect facts in a programme, benefits from a right to reply or to rectify.

(2) The Council will adopt the necessary procedure for the effective exertion of the right to reply or to rectify, as well as any other measures, including sanctions, necessary in order to warrant the right to reply or rectify within a reasonable time limit, after receiving the request from the applicant.

(3) The broadcasting of the rectification or granting of the right to reply does not bring prejudice to the right of the damaged person to address the court of law.

Art.42. - repealed by art.I indent 31 of the Government Emergency Ordinance no.181/2008

CHAPTER 4: THE LEGAL REGIME OF THE OWNERSHIP WITHIN THE AUDIO-VISUAL FIELD

Art.43. - (1) Radio-broadcasters shall be legal persons of public or private law, foundations and associations without patrimony purpose, as well as natural persons authorised pursuant to the law.

(2) repealed by Law no.333/2009 on approving the Government Emergency Ordinance no.181/2008

(3) Radio-broadcasters of private law that are legal persons shall be set up and shall operate as commercial companies.

(4) The ownership rights on shares and social parts may be transferred according to the provisions of this Law provided also that they do not harm the rights and liabilities stipulated in the licence(s) held by the respective commercial company.

(5) Any natural or legal person holding or acquiring a quota from the share capital that is equal to, or higher than 10% of the share capital or of the voting rights of a company holding an audio-visual or broadcasting licence or of a company that controls a company holding such a licence shall notify the Council thereabout within one month from the date of reaching such a quota.

(6) Shares representing the social capital of joint-stock companies shall be only nominal.

(7) The use in whatever way of another person's name by a company that applies for an audio-visual or broadcasting licence or of any other authorisation regarding an audio-visual communication service or that controls a company holding such an authorisation for the purpose of eluding the provisions of this Law is forbidden.

Art.44. - (1) With a view to protecting pluralism and cultural diversity, ownership concentration and extension of the audience in the audio-visual field are limited to dimensions ensuring economic efficiency, but not generating dominant positions in forming of public opinion.

(2) For the purpose of this Law and in order to establish the market share of the programme services, it is considered that:

a) the market of national coverage television programmes comprises all the programme services transmitted at national level by radio-broadcasters under the jurisdiction of Romania, including public television service programmes;

b) the market of national coverage sound radio-broadcasting programmes comprises all programme services transmitted at national level by radio-broadcasters under the jurisdiction of Romania, including the public radio-broadcasting service programmes.

c) the market for regional or local radio and/or television programme services includes all programme services in the respective area;

d) programme services with significant importance in shaping public opinion are general programmes, news, analysis and debates on latest political and/or economical topics;

e) the relevant market covers all radio and television services mentioned at letter d), broadcast in a certain geographical area.

f) the audience share or the market share represents the share provided to a certain programme service, established under the conditions stipulated by art.45.

(3) During the procedure for evaluating the dominant position in shaping public opinion, the programme services framing within the category of services defined in paragraph 2 letter d) which a natural or legal person either provides as an audio-visual licence holder, or for which it holds directly or indirectly a percentage of more than 20% of the capital or of the voting rights of a company holding an audio-visual licence shall be considered.

(4) During the procedure of evaluating the dominant position in shaping public opinion, family relationship connections, in keeping with the legislation in force in the field of trade, economy and finance shall be taken into account and evaluated.

(5) For the purpose of this law, by family is understood the relationship to spouse, kin and in-laws, up to the second kinship.

(6) A natural or legal person shall be deemed to hold a dominant position in shaping public opinion if the average market share of its services surpasses 30% of the relevant market.

(7) The establishing of the market share of each national, regional or local programme service is performed annually by establishing the average market share registered during the respective year for the entire broadcasting duration.

(8) The average market share of programme services covered by a natural or legal person represents the sum of market shares of each programme service provided in paragraph (3), multiplied by the capital share or voting right held by the respective person.

(9) The Council initiates the procedure for the evaluation of the dominant position in shaping public opinion by a natural or legal person in case there are serious reasons to believe that the dominant position may have been reached, according to the provisions of paragraph (6).

(10) In case the Competition Council identifies by decision an anti-competition practice (an agreement or an abuse of dominant position), or authorises an economic concentration in the field of audio-visual media services respectively, the Council shall act according to paragraph (9).

(11) Upon the Council's request, the institute appointed according to art.45 shall unfold *ad hoc* measurements, required by the procedure for the evaluation of the dominant position in forming public opinion. Programme services not included in the audience measurement system, which should be included in the evaluation process, shall be submitted to *ad hoc* measurement for

a three-month period; in case the surpass of the allowed market share is confirmed, the provisions of art.46 shall apply.

(12) For the purpose of the present law:

a) the national audio-visual licence shall provide the right to broadcast the same programme in a geographical area covering a potential audience of over 60% for radio and 70% for television of the country's censused population;

b) the regional audio-visual licence shall entitle the broadcasting of the same programme on the territory of one or more counties without reaching the coverage stipulated in letter a);

c) the local audio-visual licence is the licence whose geographical coverage area is smaller than that stipulated for a regional licence, serving solely one local community ;

d) the audio-visual licences granted for Bucharest, which are not part of a national or regional radio or television network, shall be deemed local licences.

(13) Situations stipulated in paragraph (12) letters a) and b) that do not fall in the case of initial granting of national/regional licence, but are the result of accumulation of local licences, shall be taken into account by the Council as such, or upon the express request of the licence owner, with the adequate modification of the licence data.

Art.45. - (1) The measurement of audiences and market shares shall be accomplished in compliance with the international standards and practices by specialised institutions assigned by tender.

(2) The tender shall be organised by a commission composed of 5 representatives of radio-broadcasters, 5 representatives of advertising agencies and 5 representatives of the Council.

(3) The first tender shall be organised within one year after the entry into force of this Law, and the following tenders shall be organised every four years.

(4) The Council shall have at its disposal the results of measurements, free of charge.

Art.46. - (1) Should the case arise when a natural or legal person holds a dominant position in shaping public opinion, surpassing the rating accepted in keeping with art.44 (6), the Council shall summon dominant broadcasters with a view to abide by the accepted rating within a given timeframe.

(2) By the time the term under the summon expires, a new evaluation shall be made and should the rating continue to be surpassed, the Council shall decide upon the precise ways to diminish some of the participation quotas or the number of licences held, in keeping with the natural or legal person's choice, within a three-month period.

(3) If, even after this latter term expires, the dominant position persists for the licence for which the natural or legal person holds the largest participation share, then the conditions for applying the provisions of art.57(1) letter c) shall be deemed to be fulfilled.

(4) Broadcasters shall cooperate in establishing the rating by providing all information required by the Council. Refusal to communicate the required information or submission of false data shall lead to applying the provisions of art.57(1) letter c).

Art.47. - (1) By way of derogation from the provisions of art.43, audio-visual licences may be granted to the local public authorities, if:

- a) there is no other audio-visual licence for a local programme service;
- b) it provides exclusive information services regarding the respective community.

(2) In case of granting another audio-visual licence, the licence granted under the terms of paragraph (1) shall be rightfully withdrawn.

Art.48. - Providers of audio-visual media services shall ensure simple, direct and permanent access of the public to at least the following information categories:

- a) name, legal status, and social headquarters;
- b) name of the legal representative and the structure of the shareholders to the level of the natural and legal person, associate or shareholder holding more than 20% share of the social capital or of the voting rights of a company holding audio-visual licence;
- c) names of the persons in charge of the trade company management and of those holding mainly editorial responsibility;
- d) data of media service provider, including e-mail and website, for rapid, direct and efficient contact;
- e) list of publications edited by the respective legal person and list of the other programme services that it provides;
- f) repealed by Law no.333/2009 on approving the Government Emergency Ordinance no.181/2008;
- g) competent regulatory or supervision bodies.

Art.49. - The operation of the audio-visual media services shall comply with transparency rules, in keeping with which persons operating an audio-visual media service shall inform the Council on the following aspects:

- a) changes that arose during service operation, regarding information categories mentioned in art.48, within 30 days since the occurrence of the respective changes;
- b) other categories of data regarding service operation, as soon as the activity has started.

CHAPTER 5: LICENCES AND AUTHORISATIONS

Art.50. - (1) The transmission of an analogue programme service by a radio-broadcaster under Romanian jurisdiction may be performed only based on

an analogue audio-visual licence and, as the case may arise, on a broadcasting licence.

(2) A digital terrestrial programme service may be provided by a radio/television multiplex operator under Romanian jurisdiction shall be performed only based on a licence for the use of radio frequencies in digital terrestrial system, to the benefit of the holders of digital audio-visual licences.

Art.51. - The procedure and the conditions for the issuance or the modification of the audio-visual licence are established by Council decision. The applicants have the obligation to hand in notary declarations issued at the moment the licence is requested, by means of which the applying trade company, as well as each associate or shareholder holding more than 20% of the company's social capital or voting rights of an audio-visual licence holder shall declare on own responsibility whether they are investors or direct or indirect shareholders in other audio-visual communications trade companies, mentioning the precise percentage they hold in those companies' social capital.

Art.52. - (1) The audio-visual analogue or digital licence shall be issued either based on a contest, in case of a programme service broadcast by terrestrial radio-electric means, or based on a Council decision, in case of a programme service broadcast by any type of electronic communications networks.

(2) The Council shall issue special regulations, observing the provisions of the switchover strategy, including criteria and means according to which, by exception from the provisions in paragraph (1), for television programme services broadcast by terrestrial radio-electric means, the digital audio-visual licence shall be granted in keeping with a decision for the radio-broadcasters that:

a) hold an analogue audio-visual licence whose validity has not expired and choose to broadcast their programme service by a digital terrestrial multiplex, as well;

b) are about to cease their analogue transmission or whose analogue transmission shall no longer be protected, under the conditions imposed by the provisions of the present law and by the strategy for the switchover from analogue to terrestrial digital broadcasting and the implementation of national multimedia services.

(3) The granting of digital audio-visual licence provides the broadcasters with the possibility to choose the multiplex within which their radio/television programme services will be included.

(4) The audio-visual analogue or digital licences for radio-broadcasting and television public services shall be granted without competition.

(5) The broadcasting by terrestrial radio means of public radio and television services shall be carried out in an analogue system by an operator of

electronic communications networks, based on a broadcasting licence granted by the National Authority for Management and Regulation in Communications.

(6) The transmission by terrestrial radio means of radio and television public services in a digital terrestrial system shall be performed by a provider of electronic communications networks and services, on the basis of a licence for the use of radio frequencies in digital terrestrial system granted by the National Authority for Management and Regulation in Communications under the terms mentioned in art.59(4) – (7).

Art.53. - repealed by Law no.333/2009 on approving the Government Emergency Ordinance no.181/2008

Art.54. - (1) The audio-visual analogue or digital licence comprises:

- a) the number of the licence;
- b) the holder's identification data, as well as the structure of the shareholders, down to the level of natural and legal person, associate or shareholder having more than 20% of the social capital or voting rights of an audio-visual licence holder;
- c) the type of programme service;
- d) the name and identification elements of the programme service;
- e) the general format of the programme service and the structure of the programmes;
- f) the broadcasting area;
- g) the validity term;
- h) repealed by Law no.333/2009 on approving the Government Emergency Ordinance no.181/2008
- i) the telecommunication means used for broadcasting and its holder;
- j) the assigned frequency/frequencies, channel/channels, in case of an analogue audio-visual licence;
- k) the digital multiplex to which the digital audio-visual licence belongs.

(2) The audio-visual media service providers shall ask the Council its approval for any modification occurred in the documents and data they declared, mentioned in art.54(1), letters b) and e).

Art.55. - (1) The analogue or digital audio-visual licence is granted for a 9-year period, both in the field of sound radio-broadcasting and that of television.

(2) The 9-year period runs:

- a) since the date of obtaining the technical operating certificate in case of broadcasting by terrestrial radio-electric way;
- b) since the date of obtaining the audio-visual authorisation decision in case of broadcasting by any other telecommunication means.

(3) The analogue or digital audio-visual licence may be extended every 9 years, upon request, under the conditions established by the Council.

Art.56. - (1) The analogue or digital audio-visual licence may be transferred to a third party only with the approval of the Council and if the new holder assumes all the liabilities deriving from the licence and presents the fiscal certificate of the company holding the licence.

(2) The licences granted to the education institutions, religious affairs and public administration authorities are exempted from the provisions of paragraph (1).

(3) The Decision of the Council shall be issued within 30 days from the application date.

Art.57. – (1) The analogue audio-visual licence shall be withdrawn by the Council under the following circumstances:

a) the licence holder does not start to broadcast the programme service, under the terms established by the licence, within 12 months since the date of obtaining the audio-visual licence; the Council may grant two successive six-month-extensions under justified situations;

b) the licence holder ceases to broadcast the programme service for which it was granted the audio-visual licence for more than 90 days, due to technical reasons, and for more than 96 hours, due to any other reason imputable to the licence holder;

c) as a result of infringing the rules on the ownership regime in the audio-visual field, stipulated by art.46, and of infringing the provisions of art.56;

c¹) as a result of infringing the provisions of paragraphs (8) and (9) of art.44 and art.56;

d) the holder does not submit to the Council proof of paying a fine, within 6 months since the fining;

e) upon holder's request.

(2) The audio-visual licence for broadcasting a programme service by terrestrial radio-electric way shall be also withdrawn under the following circumstances:

a) the licence holder does not obtain the audio-visual authorisation decision due to reasons imputable to him, within 60 days since obtaining the technical operating authorisation;

b) as a consequence of withdrawing the broadcasting licence.

Art.57¹. - The digital audio-visual licence shall be withdrawn by the Council under the following conditions:

a) the licence holder does not provide the programme service to the multiplex operator;

b) the licence holder ceases to provide the programme service to the multiplex operator;

c) for infringement of provisions in art.57(1) letters b), c), c¹), d) and e).

Art.58. - (1) The broadcasting of the programme service may start after obtaining the audio-visual authorisation decision.

(2) The audio-visual authorisation decision shall be granted by the Council within 30 days since the holder of the audio-visual licence has obtained the appropriate authorisation document, issued by the National Authority for Management and Regulation in Communications.

Art.59. - (1) In case the broadcasting of a programme service implies the use of a terrestrial radio-electric frequency for analogue transmission, the programme service shall be broadcast based on the analogue audio-visual licence, as well as on the broadcasting licence, granted to the audio-visual licence holder under the terms of the present law by the National Authority for Management and Regulation in Communications.

(2) In case the broadcasting of a programme service implies the use of a terrestrial radio-electric frequency for digital transmission, the programme service shall be broadcast based on the licence for the use of radio frequencies in digital terrestrial system and only for the benefit of the digital audio-visual licence holders.

(3) The operation and use of the audio-visual licences by other persons than their rightful holders are forbidden.

(4) The licences for the use of radio frequencies digital terrestrial system are granted by the National Authority for Management and Regulation in Communications to radio/television multiplex operators in keeping with the selection procedures organised by this authority, and with the strategy for the switchover from analogue to terrestrial digital broadcasting and national implementation of multimedia services.

(5) The granting of the licences for the use of radio frequencies in digital terrestrial system may be conditioned by the payment of a licence fee to the state budget.

(6) The way the procedures mentioned at paragraph (4) take place, the conditions under which the licences for the use of radio frequencies in digital terrestrial system are granted and the amount of the licence fee mentioned at paragraph (5) shall be established by Government decision.

(7) The preliminary qualification criteria of technical, administrative and/or financial nature, as well as the obligations that must be undertaken by the persons obtaining the licences for the use of radio frequencies in digital terrestrial system shall be established by the Terms of Reference elaborated with a view to organise the selection procedures, a document that takes into account the strategy for the switchover from analogue to terrestrial digital broadcasting and national implementation of multimedia services, adopted in accordance with the provisions of this law.

Art.60. - The procedure and the terms of issuing and amending the broadcasting licence shall be established by decision of the president of the National Authority for Management and Regulation in Communications.

Art.61. - (1) The broadcasting licence shall be granted for a 9-year period, both in the field of radio and television broadcasting.

(2) The 9-year term runs since the date of issuing the technical operating certificate.

(3) The licence may be extended upon request every 9 years, under the terms established by the National Authority for Management and Regulation in Communications.

Art.61¹. - (1) The licence validity term for the use of radio frequencies in digital terrestrial system is 10 years since the date of its communication.

(2) The licence for the use of radio frequencies in digital terrestrial system can be extended every 10 years, under the conditions established by the National Authority for Management and Regulation in Communications.

(3) When extending the licence validity term for the use of radio frequencies in digital terrestrial system, the National Authority for Management and Regulation in Communications may review the conditions according to which the licence had been initially granted.

(4) Under the conditions stipulated by paragraph (3), the National Authority for Management and Regulation in Communications informs the holder of the licence for the use of radio frequencies in digital terrestrial system as to the changes arisen and grants a term for conformity proportional to the quantitative and qualitative nature of the changes.

Art.62. - (1) The broadcasting licence holder or the holder of the licence for the use of radio frequencies in digital terrestrial system shall annually pay, in advance, a spectrum usage fee established by the National Authority for Management and Regulation in Communications. The broadcasting licence holder broadcasting programmes of the public radio and television stations is exempted from this obligation.

(2) repealed by Law no.333/2009 on approving the Government Emergency Ordinance no.181/2008

(3) The obligation to pay a fee for the first year of licence validity becomes effective within 45 days since the communication of the broadcasting licence has been communicated or of the licence for the use of radio frequencies in digital terrestrial system.

(4) The fee stipulated in paragraph (1) shall be paid to the National Authority for Management and Regulation in Communications.

(5) repealed by Law no.333/2009 on approving the Government Emergency Ordinance no.181/2008

Art.62¹. - The multiplex operator broadcasting programmes of the public radio and television stations, holder of the licence for the use of radio frequencies in digital terrestrial system, shall pay a fee for the use of radio spectrum, which shall be diminished according to the bandwidth allotted/assigned for the conveyance of such programmes.

Art.63. - The National Authority for Management and Regulation in Communications shall monitor and control the parameters stipulated in the broadcasting licences, in the licences for the use of radio frequencies in digital terrestrial system, as well as in the technical authorisation as compared to the technical regulations in force in the radiocommunication field, and shall respectively monitor and control these parameters during licence validity period, upon procedures set out by the regulatory authority.

Art.64. - The National Authority for Management and Regulation in Communications may alter the broadcasting licences and the licences for the use of radio frequencies in digital terrestrial system, without interrupting the programme service and by providing for an equivalent, good quality signal reception, under the conditions of art.14(2) and (3) in the Government Emergency Ordinance no.79/2002 on the general regulatory framework for communications, approved with amendments and completions by Law no.591/2002, subsequently amended and completed.

Art.65. - The broadcasting licence shall be withdrawn by the National Authority for Management and Regulation in Communications in the following cases:

- a) the licence holder, out of reasons imputable to it, fails to obtain the technical operating authorisation within 12 months since the date the broadcasting licence was granted;
- b) following withdrawal of the analogue audio-visual licence;
- c) due to infringements of the obligations under the broadcasting licence;
- d) the licence holder fails to submit to the National Authority for Management and Regulation in Communications, within 6 months from the enforcement of a fine, the document proving it has paid the respective fine;
- e) upon licence holder's request;
- f) holder's failure to pay the fee for the spectrum use and subsequent delay penalties within 45 days since deadline.

Art.65¹. - The licence for the use of radio frequencies in digital terrestrial system may be withdrawn by the National Authority for Management and Regulation in Communications in the following conditions:

- a) failure to abide by the obligations in the licence;
- b) holder's failure to pay the fee for the spectrum use and subsequent delay penalties within 45 days since deadline;

c) upon holder's request;
d) as a consequence of withdrawal of the general authorisation regime;
e) the licence holder fails to submit to the National Authority for Management and Regulation in Communications, within 6 months from the enforcement of a fine, the document proving it has paid the respective fine.

Art.66. - (1) The broadcasting licence may be transferred to a third party only together with the analogue audio-visual licence, upon prior approval from the Council and from the National Authority for Management and Regulation in Communications, as well as upon new licence holder's consent to comply with all the obligations in the licence, and upon submission of the fiscal certificate of the company that holds the licence.

(2) The licence for the use of radio frequencies in digital terrestrial system may be transferred to a third party, upon prior approval from the National Authority for Management and Regulation in Communications and advisory opinion from the National Audio-visual Council, and only upon new licence holder's consent to comply with all the obligations in the licence.

Art.67. - repealed by Law no.333/2009 on approving the Government Emergency Ordinance no.181/2008

Art.68. - With a view to serving public interest, the Council shall annually revise the strategy for covering the national territory with audio-visual programme services.

Art.69. - The National Authority for Management and Regulation in Communications forwards the proposal for frequency allocation for multiplexes, in keeping with the results from the international frequency coordination.

Art.70. - repealed by Law no.333/2009 on approving the Government Emergency Ordinance no.181/2008

Art.71. - repealed by Law no.333/2009 on approving the Government Emergency Ordinance no.181/2008

Art.72. - repealed by Law no.333/2009 on approving the Government Emergency Ordinance no.181/2008

Art.73. - (1) Operation of broadcasting stations under Romania's jurisdiction, with a view to providing any type of programme service, on the Romanian territory or from Romania's territory, is permitted only after gaining from the National Authority for Management and Regulation in Communications the technical authorisation, according to a procedure established by the regulatory authority.

(2) The procedure stipulated in paragraph (1) shall be approved by decision of the President of the National Authority for Management and Regulation in Communications.

Art.74. - (1) Retransmission of programme services by service distributors shall be made only in keeping with the Council's approval.

(2) In order to gain this approval, distributors shall inform the Council as to the structure of the retransmitted programme services.

(3) Service distributors may change the structure of the offer for retransmitted programme services only upon Council's approval.

(4) The Council withdraws the approval stipulated in paragraph (1), if a service distributor retransmits a programme service without holding the right to do so.

(5) The person intending to provide on-demand audio-visual media services shall notify the Council at least 7 days prior to starting the activity as to this intention. The notification shall include at least the information stipulated in art.48 letters (a) to (c).

Art.75. - (1) Retransmission of any programme service, legally provided by radio-broadcasters under Romania's jurisdiction, or under the jurisdiction of another state with which Romania has signed an international agreement for free retransmission in the audio-visual field, shall be free, under the law.

(2) Retransmission on Romania's territory of programme services, provided by radio-broadcasters under the jurisdiction of EU Member States, shall be free and shall not require any prior approval.

(3) The Council may temporarily restrain a broadcaster's right to free retransmission of a programme service from another EU Member State, if the following conditions are met cumulatively:

a) the programme service manifestly, seriously and gravely infringes the provisions of art.39 or art.40;

b) during the previous 12 months, the broadcaster has infringed the provisions referred to in art.39 or art.40 on at least two prior occasions;

c) The Council has notified, in writing, the broadcaster and the European Commission on the alleged infringements and on the measures it intends to take should any such infringement occur again;

a) consultations with the transmitting Member State and the European Commission have not produced an amicable settlement within 15 days of the notification provided for in letter c), and the alleged infringement persists, on condition that within 2 months following the notification of the measures adopted in Romania, the European Commission has not taken a decision on whether the measures are compatible with Community law.

Art.75¹. - (1) In respect of an on-demand audio-visual media service from an EU Member State, the Council may temporarily restrain the right to free

retransmission should such a measure be imposed by one of the following reasons:

a) public policy, in particular the prevention, investigation, detection and prosecution of criminal offences, including the protection of minors and the fight against any incitement to hatred on grounds of race, sex, religion or nationality and violations of human dignity concerning individual persons;

b) protection of public health;

c) public security, including the safeguarding of national security and defence;

d) protection of consumers, including investors.

(2) The measure stipulated in paragraph (1) may be adopted if the following conditions are met cumulatively:

a) the on-demand audio-visual media service prejudices the objectives referred to in paragraph 1 letters a) to d) or presents a serious and severe risk to prejudice those objectives;

b) the measure of restraining the right to free retransmission and its enforcement timeframe are proportionate to those objectives in paragraph 1 letters a) to d);

c) the Council required the competent authority in the EU Member State under whose jurisdiction the media service provider falls to take measures and the respective authority did not take such measures or they were inadequate;

d) the Council notified, in writing, the European Commission and the competent authority in the EU Member State under whose jurisdiction the media service provider falls of its intention to take such measures;

(3) The Council may, under urgency cases, decide the derogation from the conditions in paragraph 2 c) and d). When such is the case, the measures shall be notified in the shortest time possible to the Commission and to the Member States under whose jurisdiction the media service provider falls, indicating the reasons for which the Member States considers that there is urgency.

(4) Should the European Commission reach the conclusion that the measures are incompatible with the Community law, the Council shall renounce taking any of the proposed measures or shall urgently interrupt the enforcement of the measures in question.

Art.76. - Any service distributor retransmitting a programme service under the provisions of art.75(1) and (2) shall notify the Council regarding the state under whose jurisdiction the respective broadcaster falls and, as the case may arise, the retransmission approval which includes the technical parameters and those of the retransmission quality established between the broadcasters and the service distributors.

Art.77. - The retransmission of a programme service not falling under the provisions of art.75(1) and (2) is possible only in keeping with the retransmission authorisation.

Art.78. - Any interested party with editorial responsibility of a programme service may apply to the Council for a retransmission authorisation for a certain programme service.

Art.79. - The procedure for issuing, amending and withdrawing the retransmission authorisation is established by Council's decision.

Art.80. - Retransmission of any programme service that was granted a retransmission authorisation is free for any service distributor, without any prior authorisation, under the terms of art.74.

Art.81. - The Council shall annually publish the list of the programme services with retransmission authorisation.

Art.82. - (1) Any distributor retransmitting programme services by means of electronic communications networks, except those using exclusively radio spectrum, shall include in its offer the programme services of the Romanian Television Corporation broadcast for the public in Romania, as well as other programme services of private broadcasters under Romania's jurisdiction, free for retransmission and free of technical or financial restraints, within a limit of 25% of the total number of the programme services distributed by the respective network, as well as TV services whose retransmission compulsoriness is established by the international agreements to which Romania is a party. The criteria for evaluating private broadcasters are the decreasing order of their annual rating.

(2) Distributors retransmitting programme services shall include in their offer, at regional and local level, at least two regional and two local programmes, where such programmes exist; the criteria for choosing programmes shall be that of decreasing order of their audience.

(2) In rural areas, for networks with less than 100 subscribers, the Romanian Television Corporation may provide for free reception of the public programmes, with a view to retransmission.

(3) In those areas where a national minority accounts for more than 20% of the population, distributors shall also provide for the free reception of programmes in the language of the respective minority.

(4) Where practicable, distributors retransmitting programme services by means of electronic communications services shall include in their offer the public programme services of the Romanian Broadcasting Corporation, and those of a private national broadcaster, respectively of a private local broadcaster.

Chapter 6: Exclusive rights boundaries

Art.83. - Anyone is entitled to receiving information by means of radio and audio-visual programme services on any issue or public interest event.

Art.84. - (1) To this end, extension of exclusive rights gained contract-based by a radio-broadcaster, hereinafter referred to as primary radio-broadcaster, shall be limited by any other broadcaster's right, hereinafter referred to as secondary radio-broadcaster, to short reports on the event, provided that it does not prejudice the author or the exploitation rights owner, as follows:

a) by recording a primary broadcaster's signal for the purpose of broadcasting a short report;

b) by an organiser's or another entitled person's right to provide for a secondary broadcaster's access to places where a public interest event takes place with a view to making personal recordings meant for editing a short news report.

(2) Access stipulated in paragraph 1 letter b) guarantees for the broadcasters' free choice of short extracts from the transmitting broadcaster's signal with, unless impossible for reasons of practicality, at least the identification of their source.

(3) As an alternative, the Council may establish an equivalent system which achieves access on a fair, reasonable and non-discriminatory basis through other means.

Art.85. - (1) The short report is a brief succession of images and sounds regarding a public interest event, with a view to informing the public on essential aspects of the respective event.

(2) If an event is of general public interest is made up from several autonomous events from an organizational point of view, each element shall be deemed a public interest event.

(3) If a general interest event unfolds for several days, secondary broadcasters are entitled to broadcast daily only one short report.

(4) Irrespective of the number of parts of the general interest event and of its period, the short report may not surpass 90 seconds.

(5) Short extracts shall be used by broadcasters solely in general news programmes within max. 24 hours since the initial broadcasting. With on-demand audio-visual media services such extracts may be used only if the same programme is offered on a deferred basis by the same media service provider.

(6) All the elements of the programme or of the recording which were not used for making the extract shall be destroyed by the secondary broadcaster after broadcasting the respective extract.

(7) If the extract is made by recording the signal from a primary broadcaster, then the name and logo of the primary broadcaster must be

mentioned in the extract, except in those cases where broadcasters decide otherwise.

(8) The extract may not be broadcast before the primary broadcaster transmits the event, except for the case when the primary broadcaster does not broadcast the event for 24 h from its occurrence.

(9) A broadcast extract cannot be broadcast again unless there is a direct link between its content and another topical event.

(10) Subject to other arrangements among parties, primary broadcasters shall not impose onto secondary broadcasters compensation arrangements for broadcasting an extract. In case such compensations are provided for, these shall not exceed the additional costs directly incurred in providing access.

Art.86. - (1) Any broadcaster established in the Community area has access on a fair, reasonable and non-discriminatory basis to events of high interest to the public which are transmitted on an exclusive basis by a broadcaster under Romania's jurisdiction, with a view to making short extracts.

(2) The broadcaster under Romania's jurisdiction that has acquired exclusive rights to an event of high interest to the public shall provide access for one broadcaster in each Member State of the European Union, in keeping with the provisions in paragraph (1).

Chapter 7: Offences and sanctions

Art.87. - Any contract provisions, irrespective of the parties involved, that infringe, in the audio-visual field, the public's right to receive information of public interest and the free competition are null.

Art.88. - (1) The Council monitors and controls compliance with obligations, and sanctions the infringements of the present law, as well as of the decisions and normative guidelines issued based on, and for the purpose of, the present law. In keeping with its lawful duties, the National Authority for Administration and Regulation in Communications is in charge of supervising and controlling the compliance with the obligations specified in the broadcasting licences, the licences for the use of radio frequencies in digital terrestrial system or the technical authorisations, as well as of sanctioning the infringement of these obligations.

(2) repealed by Law no.333/2009 on approving the Government Emergency Ordinance no.181/2008

(3) In carrying out its supervision attributions, the control personnel may require media service providers or distributors the information necessary for the enforcement of this law, mentioning the cause of action and the purpose of the request. The control personnel may also establish deadlines for providing the abovementioned information, in keeping with the law sanctioning provisions.

Art.89. - The exercise of the control activity stipulated in art.88 shall be carried out, under the terms of this Law, as follows:

- a) *ex officio*;
- b) upon request from a public authority;
- c) following a complaint from a natural or a legal person directly affected by the infringement of the present law;
- d) following a complaint from a non-governmental organisation specialised in protecting human rights, women's and children's rights.

Art.90. - (1) The following deeds shall be deemed offences:

- a) the broadcasting of a cinema work outside the periods provided in the contracts concluded with copyrights holders;
- b) the use of subliminal techniques in audio-visual commercial communications;
- c) the use of audio-visual commercial communication with surreptitious content;
- d) the failure to observe the legal provisions regarding the granting of the right to reply;
- e) the broadcasting of a programme service outside the area specified in the audio-visual licence;
- f) the operating of the audio-visual licences by other persons than their rightful holders;
- g) the scheduling and broadcasting of programmes infringing the provisions of arts.27, 28, 29(1)-(7), 31(7), 32, 34, 35(1), 36, 39, 40, 41 and 85(3) - (9);
- h) the infringement of the provisions of arts.3, 17(4), 49, 54(2) and 58(1);
- i) the retransmission by a distributor of a programme service that is not covered by the provisions of art.75(1) and (2) and that has not obtained the retransmission authorisation;
- j) the retransmission of programme services by distributors infringing arts.74 and 82;
- k) the supply of a media service without holding an audio-visual licence or without the notification mentioned in art.74(5);
- l) refusal of the radio-broadcaster or of the service distributor to communicate to the control personnel, under the conditions of art.88(3), the requested information.

(2) The deeds under paragraph (1) shall be sanctioned with a fine from RON 10,000 to 200,000.

(3) If the Council decides that the effects of a deed under paragraph (1) are minor, it shall address the licensee a public summon with a view to complying with the law.

(4) The individualisation of the sanction in case of committing one of the offences stipulated by this Law shall be made by taking into account the

seriousness of the deed, its effects, as well as prior sanctions applied in a period of maximum one year.

Art. 90¹. - (1) The following deeds shall also be deemed as offences:

a) the transmission of the programme services without holding a broadcasting licence, a licence for the use of radio frequencies in digital terrestrial system or a technical authorisation;

b) the non-observance of the technical data, of the parameters or of the conditions stipulated by the broadcasting licence, by the licence for the use of the radio frequencies in digital terrestrial system or by the technical authorisation;

c) the refusal of the holder of a broadcasting licence or of a licence for the use of the radio frequencies in digital terrestrial system to submit to a control or to provide the authorised persons with the requested documents;

(2) The deeds stipulated in paragraph (1) shall be sanctioned with a civil penalty from RON 5,000 to 100,000.

Art.91. - (1) The infringement by service broadcasters or distributors of the provisions of this Law, mentioned in art.22(1), art.24(1) and (2), art.26¹(1), art.31(1), (3), (4) and (5), art.39¹ and art.48 and of the normative decisions issued by the Council, shall be considered offences.

(2) In the cases stipulated in paragraph (1), the Council shall issue a summon including the conditions and terms for abiding by the law.

(3) If the radio-broadcaster or the service distributor does not abide by the law within the terms and under the conditions established in the summons or if it infringes again these provisions, a civil penalty from RON 5,000 to 100,000 shall be applied.

Art.92. - The amount of the fines stipulated in art.90 and art.91 may be updated by decision of the Government, according to the evolution of the inflation index.

Art.93. - (1) The sanctions for infringing the provisions of this Law shall be applied by decisions issued by the Council or by the National Authority for Management and Regulation in Communications, which take action by specialized personnel authorised to this end.

(2) The sanctioning decisions issued by the Council in keeping with the provisions of arts.90 and 91 produce effects once with their communication date.

(3) The decisions issued in keeping with the provisions of paragraph (1) may be challenged in the administrative contentious department of the Court of Appeal, without the necessity to previously lodge a complaint, within 15 days after their communication date; the 15-day term does not rightfully suspend their effects.

(4) The decisions issued in keeping with the provisions of paragraph (1) that are not challenged within the term mentioned in paragraph (3) are rightfully considered writ of execution.

Art.93¹. - (1) Any broadcaster to whom the Council applied a sanction or was summoned for abiding by the law shall inform the audience about the reasons and the object of the sanction or of the summons, in keeping with the wording sent by the Council.

(2) In the case of the television programme services, the text of the summon or of the sanction shall be broadcast sonorously and visually within the next 24 hours after their communication, between 18.00 and 20.00, at least 3 times, out of which once during the main news transmission.

(3) In the case of the sonorous radio-broadcasting programme services, the text of the summons or of the sanction shall be broadcast within the next 24 hours after their communication, between 6.00 and 14.00, at least 3 times, out of which once during the main news transmission.

(4) For the television or the sonorous radio-broadcasting programme services which during the time laps mentioned in paragraphs (2) and (3) retransmit other programme services, the possibility of broadcasting is established by the sanctioning decision or in the summons.

(5) The non-observance of the provisions in paragraphs (1) to (4) shall be sanctioned with a civil penalty ranging between RON 2,500 and 50,000.

Art.94. - The provisions of Government Ordinance no.2/2001 on the legal regime of offences, approved with amendments and completions by Law no.180/2002, subsequently amended, except for the provisions of arts.28(1) and 32, shall apply to the offences assessed by the National Authority for Management and Regulation in Communications.

Art.95. - (1) If one of the offences stipulated in art.90(1) and art.91(1) is repeated, the Council may decide to apply one of the following sanctions:

a) the broadcaster shall transmit for a 10 minutes, between 19.00 and 19.10, only the text of the sanctioning decision;

b) the broadcaster shall transmit for a three - hour period, between 18.00 and 21.00, only the text of the sanctioning decision;

c) the reduction by up to half the validity term of the audio-visual licence, cumulated with the sanction mentioned under letter a);

(2) Sanctions under the terms of paragraph (1) may be applied only gradually, as follows:

a) the sanction mentioned under letter a), only if the broadcaster was previously sanctioned at least twice;

b) the sanction mentioned under letter b), only if the sanction mentioned under paragraph (1) letter a) was previously applied at least twice;

c) the sanction mentioned under letter c), only if the sanction mentioned under paragraph (1) letter b) was previously applied at least twice;

Art.95¹. - The Council may decide to withdraw an audio-visual licence or the right to provide an audio-visual media service on-demand, for repeated infringements by the media service provider of one of the following deeds:

- a) incitement of the public to hatred based on nationality, race or religion;
- b) explicit incitement to public violence;
- c) incitement to actions meant to dissolve the state authority;
- d) incitement to terrorist actions.

Art.95² - (1) The decisions issued under the conditions of arts.95 and 95¹ may be challenged in the administration contentious court; the matter shall be settled within 15 days since intimation.

(2) The challenge does not rightfully suspend a sanction, but the court may decide, upon request, within 24 hours since the appeal registration, to suspend the sanction until an irrevocable injunction is pronounced by the court.

(3) The ruling of the appeal court may be challenged by appeal to Supreme Court of Justice.

(4) The ruling of the Supreme Court of Justice is final and irrevocable and shall be pronounced within 10 days since the appeal.

Art.96. - (1) The transmission of the television/radio-broadcasting programme services without a broadcasting licence or a licence for the use of the radio frequencies in digital terrestrial system is considered to be a perpetration and shall be punished by imprisonment from 3 months to 1 year or by civil penalty from RON 5,000 to 100,000, if this deed represents a danger for the national security, the public order or the public health or causes problems of economic or operational nature to the other providers of electronic communications networks or services or to the users.

(2) repealed by Law no.333/2009 on approving the Government Emergency Ordinance no.181/2008

(3) repealed by Law no.333/2009 on approving the Government Emergency Ordinance no.181/2008

(4) In the case of perpetrations committed according to provisions in paragraph (1), the Court may decide to equally apply the provisions under the Penal Code regarding special impounding.

CHAPTER 8: FINAL AND TRANSITORY PROVISIONS

Art.97. - (1) The broadcasting licences for the audio-visual communication on radio-electric way, granted on basis of the provisions of the Audio-Visual Law no.48/1992, with the subsequent amendments, are considered audio-visual licences, according to this Law, and shall remain valid until the

rightful expiry of the terms they were granted for; the procedure of granting the broadcasting licences shall submit to the same conditions.

(2) The normative decisions issued by the Council in keeping with art.32(1) from the Audio-Visual Law no.48/1992, with the subsequent amendments and completions, shall remain valid for maximum one year after the entering into force of this Law.

(3) The broadcasting licences for radio-broadcasting or cable television, pursuant to art.22 of the Audio-Visual Law no.48/1992, with the subsequent amendments and completions, shall remain valid, under the law.

Art.98. - (1) Starting with the entry into force of this Law, the civil servants and of the personnel employed on basis of individual labour contract in the Council shall be remunerated at the level corresponding to the other autonomous public authorities under the control of the Parliament, according to Annex no.I point II of the Government Emergency Ordinance no.24/2000 on the system of establishing the basic salaries for the contractual personnel within the budgetary sector, with subsequent amendments and completions.

(2) Besides the basic salary and the incentives under the labour legislation, the personnel of the Council should also benefit of the following incentives :

- the stability benefit of 5-20% of the basic salary; for persons with a seniority in the institution of at least 2 years 5%, and for each further year 3%, without exceeding a total benefit of 20%;
- a monthly individual incentive resulted from the application of a 20% share on the salary fund annually approved by the budget;
- the annual incentive corresponding to the basic salary earned during the last month of the year for which the payment is performed.

Art. 99. - The Audio-visual Law no.48/1992, published in the Romanian Official Journal, Part I, no.104 of 25 May 1992, with the subsequent amendments and completions, as well as any other contrary provisions shall be repealed.

The present law transposes Directive 89/552/EEC of the European Parliament and of the Council of 3 October 1989 on the coordination of certain provisions laid down by documents with law power or administrative norms in Member States concerning the provision of audio-visual media services (The Directive of Audio-visual Media Services), published in the Official Journal of the European Communities, series L no.298 dated 17 October 1989, as amended by Directive 97/36/EEC and Directive 2007/65/EC.