

## CHAPTER 350

## BROADCASTING ACT

*To make provision for the regulation of all sound and television broadcasting services in Malta; as well as to provide for the powers, duties and financial resources of the Broadcasting Authority set up in accordance with the Constitution; to provide for the exercise and performance by the Authority of functions in addition to those established by the Constitution, which functions shall include that of issuing licences in respect of radio and television services in Malta; to make provision in respect of all such powers as may be necessary in order for the Authority to fulfil its functions in accordance with the Constitution and this Act; and to make provision in respect of matters ancillary thereto or connected therewith.*

1st June, 1991

*ACT XII of 1991, as amended by Acts: XIV of 1993, XVI of 1997 and XV of 2000; Legal Notices 159 and 164 of 2000; Act VI of 2001; Legal Notices 245 of 2001 and 134 of 2002; Act VII of 2004; Legal Notice 301 of 2005; Act XV of 2006; Legal Notices 69, 254 and 424 of 2007, 174 and 225 of 2008, and 348 of 2009; Act VIII of 2009; Legal Notices 321 and 322 of 2010; and Acts IV of 2010, VIII of 2011, XXXII of 2014, VII of 2015, XLII of 2016 and XVI of 2018 and LVI of 2020.*

## ARRANGEMENT OF ACT

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FIRST SCHEDULE

SECOND SCHEDULE

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## PART I

**Preliminary**

- Short title.                   **1.**    The short title of this Act is Broadcasting Act.
- Interpretation.  
Amended by:  
*XV. 2000.2;*  
*IV. 2010.2;*  
*LVI.2020.2*                   **2.**    In this Act, unless the context otherwise requires -
- "the Authority" means the Broadcasting Authority established by article 118 of the Constitution;
- "advertising" means any form of announcement broadcast whether in return for payment or for similar consideration, or broadcast for self-promotional purposes by a public or private undertaking 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, in return for payment;
- "broadcast" means the initial transmission of radio or television programmes or of any audiovisual material intended for reception by the public on any electronic communications network and any electronic communications service as defined in article 2 of the [Electronic Communications \(Regulation\) Act](#), but does not include retransmissions and communication services providing items of information or other messages on individual demand such as telecopying, electronic data banks and other similar services;
- Cap. 399.                       "broadcasting licence" means a licence issued by the Broadcasting Authority in terms of article 10 and also includes any licence, contract or other document issued under any other law whereby a person is authorised to provide a broadcasting service;
- "community radio service" means a radio service designed to cater for the needs of a particular community or locality and having a limited range of reception;
- "financial year" means the period of twelve months ending on the thirty-first day of December in any year;
- "Minister" unless otherwise provided, means the Minister responsible for broadcasting;
- "Malta" has the same meaning as is assigned to it in article 124 of the [Constitution](#);
- "National Broadcasting Plan" means the National Broadcasting Plan contained in the Second Schedule to this Act;
- "nationwide radio service" means a radio service designed to cater for the needs of the nation as a whole and having a range of reception which includes the whole of Malta;
- "person" includes also a body corporate established by law and includes also a department of government;
- "programmes broadcast by the Authority" includes programmes broadcast on behalf of the Authority in accordance with the provisions of this Act;
- "retransmission" means receiving and simultaneously transmitting, irrespective of the technical means employed,

complete and unchanged radio or television programme services, or important parts of such services, transmitted by broadcasters for reception by the general public;

"subliminal techniques" means the use of any technical device which, by using images of very brief duration or by any other means, exploits the possibility of conveying a message to, or otherwise influencing the minds of, members of an audience without their being aware, or fully aware, of what has been done;

"teleshopping" means direct offers broadcast to the public with a view to the supply of goods or services, including immovable property, rights and obligations, in return for payment.

## PART II

### **Functions and Composition of the Broadcasting Authority**

3. (1) Without prejudice to and in addition to the functions under article 119 of the Constitution, the Authority shall have the function to regulate sound and television broadcasting services in Malta and to issue licences for the provision of such services in accordance with this Act.

The Broadcasting  
Authority.

(2) The Authority shall also have the right to provide itself or through broadcasting contractors, in accordance with the provisions of this Act, sound and television broadcasting services in Malta.

(3) The Authority shall in addition to its other powers assume, from a date or dates stipulated by the Prime Minister in writing, such rights and duties arising from any agreement between the Government of Malta and cable or other broadcasting operators as the Prime Minister may from time to time specify.

(4) The services referred to in sub-article (2) may be provided for and on behalf of the Authority by broadcasting contractors who, under contract with the Authority, have in consideration of payment to the Authority and subject to the provisions of this Act, the right and duty to provide such services for and on behalf of the Authority.

(5) The Authority may not grant any licence or enter into any contract in terms of sub-article (4) on an exclusive basis, and any provision granting such exclusivity whether contracted or granted before or after the coming into force of this Act shall be deemed to be null and void, without prejudice to all the other provisions of the contract or licence which in no way violate the provisions of the sub-article.

(6) The Authority shall also have the right to appoint a separate contractor to provide a service to be transmitted either separately or through the medium provided by the other contractors who shall be bound to carry such service at such times and under such conditions as the Authority may stipulate and in return for such payment of fees or other considerations as the Authority may provide to be payable to it or to the contractor providing the service.

Status of the  
Authority.  
Amended by:  
VII. 2015.9.

4. (1) The Authority shall be a body corporate having a distinct legal personality and shall be capable, subject to the provisions of this Act, of entering into contracts, of acquiring, holding and disposing of any kind of property for the purposes of its functions, of suing and being sued, and of doing all such things and entering into all such transactions, commitments and obligations, as are incidental or conducive to the exercise or performance of its functions.

(2) It is hereby prescribed that the number of members of the Authority other than the Chairman shall be not less than four nor more than seven. One of the members shall be a person with disability.

(3) All appointments to the Authority shall be published in the Government Gazette.

(4) The legal representation of the Authority shall vest in the Chairman or in such other member or members of the Authority, as the Authority may by resolution published in the Government Gazette designate:

Provided that the Authority may delegate under its general direction, any of its powers, other than those referred to by article 119(1) of the Constitution, to any of its members or any of its officers or servants and may authorise any such persons to appear on any contract, deed or other instrument for and on behalf of the Authority, and to sign for or on its behalf any such contract, deed or instrument, as well as any other document, including cheques and other bills of exchange, and the Authority may also ratify and accept any thing done for and on its behalf without such authorisation.

(5) Any document purporting to be an instrument made or issued by the Authority and signed by the Chairman on behalf of the Authority shall be received in evidence and shall, until the contrary is proved, be deemed to be an instrument made or issued on behalf of the Authority.

The Chief  
Executive of the  
Authority.

5. (1) There shall be a Chief Executive of the Authority to be appointed following a public call for applications by the Authority from among persons who have had experience of, and shown capacity in, dealing with matters related to broadcasting.

(2) A person shall not be qualified to hold, or act in, the office of Chief Executive if he is disqualified to hold office as a member of the Authority.

(3) Under its general direction, the Authority may delegate to the Chief Executive such of its powers and duties as it may deem necessary or expedient to enable him to carry out the business of the Authority.

(4) An appointment of a person to, or to act in, the post of Chief Executive shall be published in the Gazette.

(5) Nothing in this article shall affect the validity of any appointment to the office of Chief Executive validly made before the coming into force of this Act.

6. (1) Where the Chief Executive is temporarily absent from Malta or otherwise is temporarily incapacitated from performing the functions of his office, the Authority may appoint a person to act as Chief Executive during such period of absence or incapacity.

Temporary absence of the Chief Executive.

(2) A person appointed under the preceding sub-article may exercise all the powers conferred on the Chief Executive from the date of his appointment.

(3) The person appointed in accordance with sub-article (1) shall not be a person who is disqualified from holding the office of member of the Authority.

7. The Authority shall pay to each of its members in respect of their office as such, out of funds made available to the Authority under article 24, such remuneration as the President on the advice of the Prime Minister may from time to time determine.

Remuneration.

8. (1) The meetings of the Authority shall be called by the Chairman, either on his own initiative or at the request of any two of the other members.

Proceedings of the meetings of the Authority.

(2) The Authority may act notwithstanding any vacancy among its members.

(3) The quorum of the Authority shall consist of half its members.

(4) The Chairman shall have an original vote and, in the event of an equality of votes, a casting vote; in the absence of the chairman the other members of the board shall appoint one of their number to preside over the meeting; such member shall for such meeting have the same rights as the chairman.

(5) A member of the Authority who is in any way directly or indirectly interested in a contract made or proposed to be made by the Authority shall, as soon as possible after the relevant circumstances have come to his knowledge, disclose the nature of his interest at the first meeting of the Authority after the relevant facts have come to his knowledge.

(6) Any disclosure made under sub-article (5) shall be recorded in the minutes of the Authority, and the member-

(a) shall not take part after the disclosure in any deliberation or decision of the Authority with respect to that contract; and

(b) shall be disregarded for the purpose of constituting a quorum of the Authority for any such deliberation or decision.

(7) Subject to the provisions of the Constitution and of this Act, the Authority may regulate its own proceedings.

(8) No member of the Authority shall regularly take part in broadcasting.

(9) No member of the Authority shall be a shareholder in any broadcasting operator, licensee or contractor, nor may he be involved in the management of any broadcasting service.

(10) The provisions of sub-articles (5) to (9) shall apply to the Chief Executive as if reference therein to members included references to the Chief Executive.

Staff appointments.

**9.** Subject to the provisions of the Constitution and of any other enactment applicable thereto, the Authority may appoint a secretary and such other officers and employees as it may deem necessary. The terms and conditions of employment of such staff, and of the Chief Executive, shall be comparable with those of employees in the service of the Government and shall be established by the Authority with the concurrence of the Prime Minister:

Provided that nothing in this article shall be construed as precluding the establishment, by the Authority with the approval of the Prime Minister given after consultation with the Minister responsible for finance, of schemes of incentives related to productivity or performance.

### PART III

#### Radio and Television Broadcasting Licences

*Substituted by:  
IV. 2010.3.*

Issue of  
broadcasting  
licences.

*Amended by:  
XIV. 1993.2;  
XV. 2000.3;  
VIII. 2011.2;  
XXXII. 2014.2;  
XLII. 2016.21;  
XVI. 2018.  
Fourth Schedule.*

**10.** (1) Except as provided in this Act, freedom to broadcast and to receive broadcasts is guaranteed.

(2) No person may provide sound or television broadcasting services in Malta for Malta or any part thereof without the licence in writing of the Authority, nor may any person retransmit sound or television broadcasting services from Malta to any foreign state without the licence in writing of the Authority.

(3) Subject to the provisions of this Act, a broadcasting licence granted under this article may be issued under such terms, conditions and limitations as the Authority may deem fit.

(4) Licences may be of particular classes or description and shall in particular include licenses for:

- (a) nationwide television services;
- (b) nationwide radio services;
- (c) community radio services;
- (d) satellite radio services;
- (e) satellite television services;
- (f) such other services which may be broadcast or provided on or by an electronic communications network as defined in article 2 of the Electronic Communications (Regulation) Act as the Authority may by regulations prescribe.

Cap. 399.

(4A) In so far as nationwide television services are concerned, the Authority may issue the following categories of television broadcasting licences:

- (a) a general interest broadcast content licence issued to any broadcaster other than the company referred to in

sub-article (4C);

- (b) a commercial broadcast content licence issued to any broadcaster;
- (c) a parliamentary broadcast content licence issued to the Speaker of the House of Representatives.

(4B) The Authority may make regulations to give better effect to the provisions of sub-articles (4) and (4A) and may, without prejudice to the generality of the foregoing, make regulations in respect of the application process for all services and applications for licences, including establishing the applicable application and licence fees therefor and to establish evaluation criteria therefor.

(4C) Stations owned or controlled by the Government company referred to in sub-article (4D) or for which the said company is editorially responsible shall be licensed by the Minister. For the purposes of enabling the Authority to carry out its regulatory duties in terms of law, the Minister shall, as soon as possible from the date of issue of any licence to the aforesaid Government company, notify in writing to the Authority a copy of such licence. The provisions of article 119 of the Constitution of Malta, this Act and all subsidiary legislation made thereunder shall continue to apply to such licensee.

(4D) The Government may, through a company designated by the Minister by an order in the Gazette, as a company providing public broadcasting services, own, control or be editorially responsible for nationwide television and radio services mentioned in sub-article (4C):

Provided that the Government may not own any broadcasting services or participate in their ownership, control or be editorially responsible for any such services other than through such company, and that no other company in which the Government has a controlling interest may own voting shares in a company providing any broadcasting services.

(4E) The following terms are defined as follows:

"general interest objective service" means a television broadcasting service which takes on the obligation of broadcasting a specified quantum of programmes which are of general interest and which are considered by the National Broadcasting Policy as in force from time to time to be part of the remit of a public service broadcasting service. A general interest objective service may be either a generalist service or a niche service;

"niche service" means a television broadcasting service which predominantly transmits programmes of a limited number of genres of a specialist subject matter;

"generalist service" means a television broadcasting service which transmits a wide range of programme genre; and

"commercial television broadcasting service" means a television broadcasting service that is either a generalist service or a niche service and that is not subject to the obligations of a general interest objective service;

"parliamentary broadcast content licence" means a licence to broadcast plenary and committee sessions of the House of Representatives and any other activity taking place in the Parliament building organised by or in conjunction with the Office of the Speaker, through a nationwide radio service and or nationwide television service.

(5) A licence for any broadcasting service may only be awarded to a company regularly incorporated in Malta in accordance with the Companies Act:

Cap. 386.

Provided that:

- (a) a parliamentary broadcast content licence may only be awarded to the Speaker of the House of Representatives; and
- (b) licences for community radio services may also be awarded to individuals who are ordinarily resident in Malta.

(6) Subject to the provisions of sub-article (2) and without prejudice to the provisions of sub-article (4D), the same organisation, person or company may concurrently own, control or be editorially responsible for more than one nationwide radio service and one nationwide television service, provided that:

- (a) only one nationwide radio service may be licensed on the FM frequency to the same organization, person or company;
- (b) not more than two generalist nationwide television services may be licensed to the same organization, person or company;
- (c) the same organisation, person or company may not own, control or be editorially responsible for more than one nationwide radio or television service predominantly transmitting news and current affairs.

(6A) The same organisation, person or company may not own, control or be editorially responsible for more than one community radio service and any organisation which owns, controls or is editorially responsible for a nationwide radio service or a nationwide television service or such other service as mentioned in sub-article (4)(d) may not own, control or be editorially responsible for a community radio service.

(6B) Where an electronic communications network operator does not broadcast any programme content on a particular station for such period of time as the Authority shall determine, then, notwithstanding the provisions of this Act, no amount of transmission time may be devoted to teleshopping spots, advertising spots and other forms of advertising on that station. It shall be the duty of the said network operator to provide the Authority with programme schedules at reasonable intervals that the Authority may determine to enable it beforehand to exercise its powers under this sub-article.

(6C) Repealed by Act [XVI.2018. Fourth Schedule](#).



(6D) Local councils established under the [Local Government Act](#) may not, in terms of article 77 of the [Local Government Act](#), own, control or be editorially responsible for any broadcasting service, including any community radio service. Cap. 363.

(6E) For the purpose of this article the simultaneous transmission of the same broadcasting service on different media shall be considered as one broadcasting service.

(7) Where the licensee is a partnership no person may act as a director of such partnership unless he is qualified in terms of the [Media and Defamation Act](#) to be an editor of a newspaper. Cap. 579.

(8) The licensee of a community radio service shall before the 15th January of each calendar year declare in writing to the Authority his intention to carry on providing broadcasting services on the frequency specified in his licence for another year.

(9) Licences for the services referred to in sub-article (1) shall include the conditions listed in the First Schedule to this Act:

Provided that community radio services shall be subject to the minimum of regulation consistent with the public interest and that such services shall be subject to conditions which, taken together, are less onerous than those provided for nationwide radio services.

(10) Without prejudice to the generality of the foregoing, a licence may in particular be subject to limitations regarding the maximum time, the minimum time, or both the maximum and the minimum time, which is to be given each day to broadcasts by the licensee, and as to the hours of the day in which such broadcasts are or are not to be made, and it shall be the duty of the licensee to comply with such limitations or other conditions.

(11) On the breach of any terms, conditions or limitations attached to a broadcasting licence, the persons committing such breach shall be guilty of an offence against this Act.

(12) A broadcasting licence unless previously revoked by the Authority, shall continue in force for such period as may be specified in the licence, provided that such period shall not exceed eight years:

Provided that a licensee may not earlier than one year before the expiration of a licence apply for a further licence, which licence shall not be unreasonably refused.

**11.** (1) When issuing broadcasting licences, the Authority shall be guided by the following considerations -

- (a) that the principles of freedom of expression and pluralism shall be the basic principles that regulate the provision of broadcasting services in Malta;
- (b) that a diverse system of public and private stations with their own particular character, would be the best system for the realisation of the basic principles above referred to;
- (c) that private broadcasting services shall be allowed to

Considerations to guide Authority in issue of broadcasting licences.  
*Amended by:*  
*XV. 2000.4;*  
*VIII. 2011.3.*

operate in such a way so as to ensure a distribution of programming that appeals to general as well as specific and various interests. The Minister shall prepare and publish Government's broadcasting policy and update it from time to time;

- (d) that no situation of monopoly or similar situation of a small group of persons or in favour of any station or group of stations should be allowed; and
- (e) that in granting licences to different persons, it shall also take into account the possibility of broadcasting by satellite, cable, digital terrestrial television, digital radio or through such other electronic communications networks as may be possible from time to time.

(1A) The Minister may, in conjunction with the Minister responsible for wireless telegraphy, from time to time, amend or substitute the Second Schedule to this Act.

(2) The Authority shall specifically consider:

- (a) that criteria for the assessment of applications for licences shall include:
  - (i) economic potential and viability,
  - (ii) quality of scheduled programming, and
  - (iii) technological and broadcasting plans and projects;
- (b) that a licensee should be able to fulfil all his obligations under this Act and to secure compliance with all directives of the Authority as the Authority may deem necessary or expedient for the proper exercise of the functions described in article 119 of the Constitution.

(3) An applicant whose application has been refused by the Authority and who feels that the Authority has not acted in conformity with the rules of natural justice, or that it has acted in a manner which is grossly unreasonable or with undue discrimination, or whose application has been pending for at least four months, may appeal against such decision or delay to the Court of Appeal in accordance with the procedures laid down in article 16 (5), (6), (7), (9) and (10).

**12.** The Authority shall, subject to the provisions of this Act, also have the power to do all such things as are in its opinion necessary for or conducive to the proper discharge of its right under article 3(2) and, in particular, it shall for the purpose of discharging that right, have power, if it so chooses -

- (a) to establish, install and use stations for the provision of broadcasting services;
- (b) to arrange for the provision and equipment of, or, if need be, itself provide and equip studios and other premises of television and sound broadcasting purposes;

- (c) collect and diffuse news and information in Malta and from any part of the world; and
- (d) to advance the skills of persons in broadcasting by providing or assisting others to provide facilities for training, education and research.

13. (1) It shall be the duty of the Authority to discharge its functions under this Act as respects the licensing of the services referred to in article 3(1) in the manner which it considers is best calculated to ensure that a wide range of such services is available throughout Malta.

General provisions as to the provision of broadcasting services in Malta and regarding the Authority's duties in respect thereof.

*Amended by:  
XV. 2000.6;  
VIII. 2011.4.*

(2) In so far as general interest broadcasting services are concerned and where the Authority allows news and current affairs programmes to be broadcast by such services, it shall be the duty of the Authority to satisfy itself that, so far as possible, the programmes broadcast by any general interest broadcasting service complies with all or any of the following requirements as the Authority may impose in the broadcasting licence, that is to say -

- (a) that nothing is included in the programmes which offends against religious sentiment, good taste or decency or is likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling;
- (b) that all news given in the programmes (in whatever form) is presented with due accuracy;
- (c) that sufficient time is given to news and current affairs and that all news given in the programmes (in whatever form) is presented with due impartiality;
- (d) that proper proportions of the recorded and other matter included in the programmes are in the Maltese language and reflect Maltese cultural identity;
- (e) that the programmes broadcast contain a substantial proportion of matter closely designed to appeal to the interest, tastes and outlook of the general public; and
- (f) that due impartiality is preserved in respect of matters of political or industrial controversy or relating to current public policy:

Provided that, except in the case of public broadcasting services, in applying paragraphs (c) to (f), the Authority shall be able to consider the general output of programmes provided by the various broadcasting licensees and contractors, together as a whole:

Provided further that the Authority may, when granting a broadcasting licence for a commercial station, impose any of the requirements mentioned in paragraphs (a) to (f) in the said licence.

(3) The Authority shall ensure that, for the continued operation of the licence of a community radio service, the views and expressions of the licensee or of particular persons or bodies, on religious matters or on matters which are of political or industrial controversy or relate to current public policy do not predominate.

(4) It shall also be the duty of the Authority to organise from

time to time schemes of political broadcasts (including political spots) which fairly apportion facilities and time between the different political parties represented in Parliament; to produce properly balanced discussions or debates that afford access to persons from different interest-groups and with different points of view, and also to produce commentaries or other programmes about questions relating to current public policy, wherein persons taking part can put forward differing views and comments.

(5) In order to fulfil its duty under sub-article (4), the Authority shall in addition to all its other powers, have the right to order any person or all persons providing broadcasting services in Malta for reception in Malta to provide, free of charge, such recording and other facilities as may be necessary for the production of the said programmes for radio and television, as well as to transmit, free of charge, on such days and at such times as the Authority shall direct, the same programmes:

Provided that the powers of the Authority under this sub-article may only be exercised in so far as that exercise is reasonably justifiable in a democratic society.

Payment of  
broadcasting  
licence fees.

**14.** (1) On the issue and renewal of a broadcasting licence, and, where the regulations under this Act so provide, at such times thereafter as may be prescribed by the regulations, there shall be paid by the persons applying for such issue or renewal such sums as may be prescribed by regulations, and different provision may be made in such regulations in relation to different licences, according to the nature, terms, conditions, limitations and duration thereof:

Provided that the regulations made may contain provisions authorising, in such cases as are not otherwise dealt with by the regulations, the charge of such sums, whether on the issue or renewal of the licence or subsequently, as in the particular case appear to the Authority to be proper and justified.

(2) The contracts between the Authority and broadcasting contractors as may be appointed under article 3 shall provide for payments by the broadcasting contractors to the Authority, as the Authority may regard as necessary in order to discharge its duties under this Act in relation to the broadcasting contractors in question.

Directions by  
Authority.

**15.** It shall be lawful for the Authority to give to any person providing, or responsible for the provision of, any sound or television broadcasting service in Malta, such directions in writing as the Authority may deem necessary or expedient for the proper exercise of the functions described in article 119 of the Constitution and for the proper discharge of any other duty or function referred to in this Act, including directions not to broadcast, or to broadcast, or to cause the broadcasting of, or containing conditions as to the broadcasting of, any matter referred to in the aforesaid provisions of the Constitution and of this Act, and including directions requiring the provision in advance of scripts and particulars of programmes, the provision of recordings of programmes and the provision of such other information as the

Authority may reasonably require for the purposes aforesaid.

16. (1) The following acts may not be carried out without the previous consent in writing of the Authority, which shall not be unreasonably withheld:

- (i) the assignment of a broadcasting licence;
- (ii) the transfer of shares in a company holding a broadcasting licence;
- (iii) the transfer of the effective control of a company holding a broadcasting licence;
- (iv) the transfer of managerial control of a broadcasting station by a broadcasting licensee to another person;
- (v) the transfer of the beneficial ownership of a company holding a broadcasting licence;
- (vi) the merger of companies holding a broadcasting licence;

Broadcasting  
licences and  
contracts not  
assignable.  
*Amended by:*  
*XV. 2000.7;*  
*VI. 2001.20;*  
*VIII. 2011.5.*

Provided that the provisions of this sub-article shall not apply to a general interest broadcast content licence and it shall not be permissible for the Authority to authorise any of the measures mentioned in paragraphs (i) to (vi).

(2) The Authority may require from time to time from broadcasting licensees or contractors such declarations, returns, accounts, documents and other information as the Authority may consider necessary or advisable for the purpose of ensuring that the requirements of this Act are complied with.

(3) Every licence issued by the Authority as well as every contract between the Authority and a broadcasting contractor shall contain all such provisions as the Authority thinks necessary or expedient for complying and securing compliance with the provisions of this Act. The First Schedule shall apply to such licence and contract aforesaid.

(4) Without prejudice to the provisions of sub-article (3), every licence issued by the Authority as well as every contract between the Authority and a broadcasting contractor shall contain a provision reserving to the Authority the right, in view of any breaches by the broadcasting licensee or contractor of his obligations with the Authority, to serve on the broadcasting licensee or contractor, a notice in writing, taking effect forthwith or on a date stated in the notice to determine the licence or contract, or to suspend the operation of the licence or of the contract, as the case may be, for such period as may be specified in the notice or until a further notice is given.

(5) Any broadcasting licensee who feels aggrieved by a decision of the Authority to suspend or determine his licence in terms of sub-article (4), may appeal against such decision, to the Court of Appeal by an application filed within fifteen days from the date of service upon him of the decision of the Authority.

(6) Where an application is filed within the time limited by sub-article (5), a copy thereof is also to be served on the Authority

which shall within fifteen days of such service file a reply in justification of its decision.

(7) The Court of Appeal shall on the lapse of the time stated in the immediately preceding sub-article fix a date for the hearing of the appeal, which shall be disposed of with urgency.

(8) The Court of Appeal may on the application of the appellant order the suspension of the decision of the Authority pending the appeal.

Cap. 12. (9) (a) The Board established under article 29 of the [Code of Organization and Civil Procedure](#) may make rules concerning appeals to the Court of Appeal under this article.

(b) The Minister responsible for justice may by regulations under this paragraph establish the fees payable in the registry of the Court relative to the filing of judicial acts in connection with appeals under this article:

Cap. 12. Provided that until such fees are so established, the fees contained in Schedule A to the [Code of Organization and Civil Procedure](#) shall apply.

(10) Where no valid appeal has been lodged within the time limited by sub-article (5), or where the appeal has been withdrawn or discontinued, or where the matter has been determined by the Court of Appeal, the decision as regards suspension or determining of the broadcasting licence in question shall be final and conclusive for all purposes of this Act.

Broadcasting  
licences issued by  
the Minister.  
*Added by:*  
*XV. 2000.8.*  
*Amended by:*  
*VI. 2001.20.*  
*Substituted by:*  
*VIII. 2009.2.*

**16A.** (*Deleted by Act VIII. 2011.6.*)

Digital radio.  
*Added by:*  
*XV. 2006.14.*

**16B.** (1) The Authority is hereby entrusted with licensing broadcasting content on digital radio services.

(2) The Prime Minister may, following agreement with the Authority, make regulations to give better effect to the provisions of this article and may, without prejudice to the generality of the foregoing, prescribe:

- (a) the method of application, including the forms, to be used in an application for a digital radio broadcasting licence;
- (b) the information of a technical nature or otherwise to be supplied with each application;
- (c) the conditions under which a digital radio broadcasting licence may be issued, as well as the conditions under which it can be amended, altered, suspended or revoked;
- (d) the conditions under which any installation, apparatus

or other property of a digital radio broadcasting licensee, shall be installed, operated, maintained, protected, controlled, or in any way safeguarded and the prohibition of the use of any dangerous installation, apparatus or fittings;

- (e) any tariff of prices, fees and charges which may be or are required to be prescribed by or under the provisions made thereunder and the time, place and manner for the payment of such prices, fees or charges and the mode of collection and disposal thereof;
- (f) the period for which a digital radio broadcasting licence shall remain operative;
- (g) the conditions under which any persons holding a digital radio broadcasting licence under this article shall operate digital radio broadcasting service;
- (h) the qualifications to be possessed by persons before they may be entrusted with the construction, repair, alteration or control of any apparatus or installation to be availed of by any digital radio broadcasting contractor or licensee, and the nature of the tests to be employed for ascertaining whether persons possess such qualifications;
- (i) the measures to be taken and the fittings to be supplied and used in connection with installations in order to secure public safety and private safety;
- (j) the means to be adopted, whether by prohibition or otherwise, to prevent or abate any danger, damage or nuisance likely to arise or arising from the working of any installations or apparatus used by a digital radio broadcasting contractor or licensee;

and any other matter which the Prime Minister and the Authority consider necessary or expedient for the better carrying out of the provisions of this Act for securing the safety of the public, or for giving effect to, and securing compliance with, any or all of the directives or codes which may be issued by the Authority by virtue of this Act, or in general for ensuring adequate digital radio broadcasting services or the proper monitoring and supervision of such services in Malta.

#### PART IIIA

##### **Satellite Radio and Television Programme Content Services**

**16C.** (1) All satellite radio and television programme content services shall be licensed by the Broadcasting Authority in terms of this Part of this Act.

(2) A person who is under the jurisdiction of Malta shall not supply a compilation of programmes for the purpose of such compilation being transmitted as a radio broadcasting service, whether for reception in Malta or elsewhere, by means of a satellite device otherwise than under and in accordance with a satellite radio content broadcasting licence.

*Added by:  
VIII. 2009.3.*

Licensing of  
satellite radio and  
television services.  
*Added by:  
VIII. 2009.3.*



(3) A person who is under the jurisdiction of Malta within the meaning of the Council Directive shall not supply a compilation of programmes for the purpose of such compilation being transmitted as a television broadcasting service, whether for reception in Malta or elsewhere, by means of a satellite device otherwise than under and in accordance with a satellite television content broadcasting licence.

(4) An application fee of one thousand euro (€1,000) shall be paid to the Authority by an applicant for a satellite radio or television content broadcasting service.

(5) The Authority may issue a licence to a person whereby such person may supply a compilation of programmes for the purposes referred to in sub-article (1), and such a licence shall be known as a "provision of satellite content broadcasting licence" and is in this Part referred to as a "satellite content licence".

(6) A satellite content licence shall include:

- (a) a condition requiring the holder of the licence to comply with such legislation, requirements as to standards, practice and conditions as the Authority may specify with respect to the programmes supplied in pursuance of the licence; and
- (b) a condition requiring the holder of the licence to utilize that licence for such duration as the Authority may establish provided that such duration shall not exceed a maximum period of eight years.

(7) In so far as the allocation of radio frequencies for use by satellite radio and television programme content services are concerned, such function shall be exclusively carried out by the Malta Communications Authority in accordance with the national radio frequency plan which the Minister responsible for communications may from time to time adopt in accordance with the provision of the [Electronic Communications \(Regulation\) Act](#).

Cap. 399.

Licensing etc., of  
satellite content  
services.

Added by:  
VIII. 2009.3.

**16D.** (1) The Authority may grant such licences to provide satellite content services as it may determine.

(2) An application for a licence to provide satellite content service shall -

- (a) be made in such manner as the Authority may determine; and
- (b) be accompanied by such licence fee as the Authority may determine.

(3) In its application in relation to a licence to provide a satellite content service, article 41 and the Fifth Schedule shall have effect in the sense that the maximum amount which the holder of such a licence may be required to pay by way of an administrative penalty imposed in pursuance of article 41 shall instead be of a maximum of three hundred thousand euro (€300,000).



**16E.** The Prime Minister may, following agreement with the Authority, make regulations to give better effect to the provisions of this Part and may, without prejudice to the provisions of the foregoing, make regulations extending the application of regulations made under article 16B to satellite radio and television broadcasting with such modifications and adaptations as the Prime Minister and the Authority may determine.

Regulations.  
Added by:  
VIII. 2009.3.

**16F.** For the purposes of this Part:

"Council Directive" means Directive (UE) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provisions of the audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities;;

Interpretation.  
Added by:  
VIII. 2009.3.  
Amended by:  
LVI.2020.3.

"holder" means the person to whom a satellite content service licence has been granted by the Authority;

"programmes" includes advertisements, teleshopping and programme promotions.

### PART III B

#### Provisions Applicable to Radio and to All Audiovisual Media Service Providers

Added by:  
IV. 2010.5.

**16G.** In this Part, unless the context otherwise requires:

"audiovisual commercial communication" means images with or without sound which are designed to promote, directly or indirectly, the goods, services or image of a natural or legal person pursuing an economic activity; such images accompany, or are included in a programme or user-generated video in return for payment or for similar consideration or for self-promotional purposes. Forms of audiovisual commercial communication include, *inter alia*, television advertising, sponsorship, teleshopping and product placement;

Interpretation.  
Added by:  
IV. 2010.5.  
Amended by:  
LVI.2020.4

"audiovisual media service" means:

- (a) a service as defined by articles 56 and 57 of the Treaty on the Functioning of the European Union, where the principal purpose of the service or a dissociable section thereof is devoted to providing programmes, under the editorial responsibility of a media service provider, to the general public, in order to inform, entertain or educate, by means of electronic communications networks within the meaning of point (a) of Article 2 of Directive 2002/21/EC. Such an audiovisual media service is either a television broadcast or an on-demand audiovisual media service;
- (b) audiovisual commercial communication;"broadcaster" means a media service provider of either radio or television broadcasts, or of both;

"editorial decision" means a decision which is taken on a regular basis for the purpose of exercising editorial responsibility and linked to the day-to-day operation of the audiovisual media service;

"editorial responsibility" means the exercise of effective control both over the selection of the programmes and over their organisation either in a chronological schedule, in the case of television broadcasts, or in a catalogue, in the case of on-demand audiovisual media services. Editorial responsibility does not necessarily imply any legal liability under national law for the content or the services provided;

Cap. 460.

"European Union" shall have the same meaning assigned to it by article 2 of the [European Union Act](#);

"media literacy" refers to skills, knowledge and understanding that allow citizens to use media effectively and safely;

"media service provider" means the natural or legal person who has editorial responsibility for the choice of the audiovisual content of an audiovisual media service and determines the manner in which it is organised;

"Member State" means a Member State of the European Union;

"on-demand audiovisual media service" means a non-linear audiovisual 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;

"pop-up advertising" means all forms of audiovisual commercial communication that appears superimposed on the audiovisual media service during the television broadcast of the same service;

"product placement" means any form of audiovisual 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 or a user-generated video, in return for payment or for similar consideration;

"programme" means a set of moving images with or without sound constituting an individual item, irrespective of its length, within a schedule or a catalogue established by a media service provider, including feature-length films, video clips, sports events, situation comedies, documentaries, children's programmes and original drama;

"sponsorship" means any contribution except television advertising, teleshopping and product placement made by public or private undertakings or natural persons not engaged in providing audiovisual media services or video-sharing platform services or in producing audiovisual works to the financing of audiovisual media services, video-sharing platform services, user-generated videos or programmes with a view to promoting their name, trademark, image, activities or products;

"surreptitious audiovisual commercial communication" means the representation in words or pictures of goods, services, the name, the trade mark or the 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;

"television broadcasting" or "television broadcast" means a linear audiovisual media service provided by a media service provider for simultaneous viewing of programmes on the basis of a programme schedule;

"thematic placement" means commercial product placement through the integration of the product into the theme, colloquium, dialogue or any other form of integration into a television programme or part thereof such as the integration of a commercial product as a theme in a drama series;

"the Treaty" shall have the same meaning assigned to it by article 2 of the [European Union Act](#);

Cap. 460.

"user-generated video" means a set of moving images with or without sound constituting an individual item, irrespective of its length, that is created by a user and uploaded to a video-sharing platform by that user or any other user;

"video-sharing platform provider" means the natural or legal person who provides a video-sharing platform service;

"video-sharing platform service" means a service as defined by Articles 56 and 57 of the Treaty on the Functioning of the European Union, where the principal purpose of the service or of a dissociable section thereof or an essential functionality of the service is devoted to providing programmes, user-generated videos, or both, to the general public, for which the video-sharing platform provider does not have editorial responsibility, in order to inform, entertain or educate, by means of electronic communications networks within the meaning of point (a) of Article 2 of Directive 2002/21/EC and the organisation of which is determined by the video-sharing platform provider, including by automatic means or algorithms in particular by displaying, tagging and sequencing.

**16H.** (1) The Authority shall ensure that all audiovisual media services transmitted by media service providers falling under the jurisdiction of Malta shall comply with the provisions of this Act and of any subsidiary legislation made thereunder applicable to audiovisual media services intended for the public in Malta.

Obligations of the Authority concerning audiovisual media services.

*Added by:*  
*IV. 2010.5.*

*Amended by:*  
*VIII. 2011.17;*  
*LVI.2020.5.*

(2) For the purposes of this Act, the media service providers under the jurisdiction of Malta shall be those providers:

- (a) who are established in Malta in accordance with sub-article (3); or
- (b) to whom sub-article (4) applies.

(3) For the purposes of this Act, a media service provider shall be deemed to be established in Malta:

- (a) if the media service provider has its head office in Malta and the editorial decisions about the audiovisual media service are taken in Malta;
- (b) if a media service provider has its head office in Malta but editorial decisions on the audiovisual media service are taken in another Member State, the media service

provider shall be deemed to be established in the Member State where a significant part of the workforce involved in the pursuit of the programme-related audiovisual media service activity operates. If a significant part of the workforce involved in the pursuit of the programme-related audiovisual media service activity operates in each of those Member States, the media service provider shall be deemed to be established in the Member State where it has its head office. If a significant part of the workforce involved in the pursuit of the programme-related audiovisual media service activity operates in neither of those Member States, the media service provider shall be deemed to be established in the Member State where it first began its activity in accordance with the law of that Member State, provided that it maintains a stable and effective link with the economy of that Member State;

(c) if a media service provider has its head office in Malta but decisions on the audiovisual media service are taken in a third country, or vice-versa, it shall be deemed to be established in Malta, provided that a significant part of the workforce involved in the pursuit of the audiovisual media service activity operates in Malta.

(4) Media service providers to whom the provisions of sub-article (3) are not applicable shall be deemed to be under the jurisdiction of a Member State in the following cases:

- (a) if they use a satellite up-link situated in Malta;
- (b) although they do not use a satellite up-link situated in Malta, if they use satellite capacity appertaining to that Member State.

(5) If the question as to which Member State has jurisdiction cannot be determined in accordance with sub-articles (3) and (4), the competent Member State shall be that in which the media service provider is established within the meaning of articles 49 to 54 of the Treaty.

(6) The provisions of articles 16G to 16P shall not apply to audiovisual media services intended exclusively for reception in third countries and which are not received with standard consumer equipment directly or indirectly by the public in Malta.

(7) Media service providers shall inform the Authority about any changes that may affect the determination of jurisdiction in accordance with sub-articles (2), (3) and (4).

(8) The Authority shall establish and maintain an up-to-date list of the media service providers under its jurisdiction and indicate on which of the criteria set out in sub-articles (2) to (5) its jurisdiction is based. The Authority shall communicate that list, including any updates thereto, to the Minister.

- 16I.** (1) Except as provided in this Act:
- (a) freedom of reception is guaranteed; and
  - (b) freedom of retransmission in Malta of audiovisual media services from other Member States for reasons which fall within the fields coordinated by the Directive is guaranteed.
- (2) The Minister may make regulations to derogate from the provisions of sub-article (1) which are consistent with the provisions of the Directive provided that the conditions mentioned in article 2a of the Directive are fulfilled.
- 16J.** (1) A media service provider shall make easily, directly and permanently accessible to the recipients of a service at least the following information:
- (a) its name;
  - (b) the geographical address at which it is established;
  - (c) the details, including its email address or website, which allow it to be contacted rapidly in a direct and effective manner;
  - (d) the Member State having jurisdiction over it and the competent regulatory authorities or bodies or supervisory bodies.
- (2) The media service provider shall make accessible to the Authority information concerning its ownership structure, including the beneficial owners.
- (3) Each directive and, or measure that the Authority grants or takes for the purpose of the preceding sub-article shall be necessary and proportionate and shall aim to respect the rights and observe the principals reflected in the Charter of Fundamental Rights of the European Union.
- 16JA.** (1) Audiovisual media services provided by media service providers which may impair the physical, mental or moral development of minors shall only be made available in such a way as to ensure that minors will not normally hear or see them. Such measures may include selecting the time of the broadcast, age verification tools or other technical measures.
- (2) The most harmful content, such as gratuitous violence and pornography, shall be subject to the strictest measures.
- (3) Personal data of minors collected or otherwise generated by media service providers pursuant to sub-article (1) shall not be processed for commercial purposes, such as direct marketing, profiling and behaviourally targeted advertising.

Freedom of reception and re-transmission.  
*Added by:*  
*IV: 2010.5.*  
*Amended by:*  
*XXXII. 2014.3.*

Information to be provided by media service providers.  
*Added by:*  
*IV: 2010.5.*  
*Substituted by:*  
*LVI.2020.6.*

Protection of Minors.  
*Added by:*  
*LVI.2020.7.*

S.L. 350.18.

Accessibility for  
persons with  
disability.  
Added by:  
LVI.2020.7.

(4) Media service providers shall provide sufficient information to viewers about content which may impair the physical, mental or moral development of minors. For this purpose, media service providers should follow the provisions of the Requirements as to Standards and Practice applicable to the Family Viewing and Listening, in particular as regards the operation of a system describing the potentially harmful nature of the content of an audiovisual media service.

**16JB.** (1) Media services provided by media service providers shall, without undue delay, by means of a progressive and continuous process, ensure that content is accessible to persons with disabilities by means of proportionate measures. Media services should, by no later than six months after the entry into force of this article, submit an action plan detailing the measures adopted. This action plan shall be updated by media service providers at least once every two years, which period shall start to run from the date on which the media service provider submitted the action plan to the Authority. In any case, the Authority may request the media service provider to make changes to both the action plan as well as the updates, if the Authority is of the opinion that these are not effectively reflecting the obligations provided for in this article.

(2) Media service providers shall, each year, present a properly documented report to the Authority giving an account of the progress made in implementing the necessary measures to give effect to the provisions of the preceding sub-article.

(3) The Authority shall designate a single, easily accessible and publicly available online point of contact, even for persons with a disability, for providing information and receiving complaints regarding any accessibility issues referred to in this article. These complaints are heard in accordance with the procedure referred to in article 22A.

(4) Media service providers shall ensure that emergency information, including public communications and announcements in natural disaster situations, which is made available to the public through audiovisual media services, is provided in a manner which is accessible to persons with disabilities.

Required consent  
to changes in  
programmes or  
audiovisual media  
services.  
Added by:  
LVI.2020.7.

**16JC.** (1) Programmes and, or audiovisual media services should not be transmitted in a shortened form, altered or interrupted, or overlaid for commercial purposes, without the explicit consent of the media service provider:

Provided that this article would not effect control elements of any user interface necessary for the operation of the device or programme navigation, such as volume bars, search functions, navigation menus or lists of channels.

(2) Sub-article (1) does not apply to legitimate overlays, such as warning information, general public interest information, subtitles or commercial communications overlays provided by the media service provider.

(3) Without prejudice to Article 3(3) of Regulation (EU) 2015/2120 of the European Parliament and of the Council, data compression techniques which reduce the size of a data file and other techniques to adapt a service to the distribution means, such as resolution and coding, without any modification of the content, should not be covered either.

**16K.** (1) Audiovisual commercial communications provided by media service providers shall comply with the following requirements:

- (a) audiovisual commercial communications shall be readily recognisable as such; surreptitious audiovisual commercial communication shall be prohibited;
- (b) audiovisual commercial communications shall not use subliminal techniques;
- (c) audiovisual commercial communications shall not:
  - (i) prejudice respect for human dignity;
  - (ii) include or promote any discrimination based on sex, racial or ethnic origin, nationality, religion or belief, disability, age or sexual orientation;
  - (iii) encourage behaviour prejudicial to health or safety;
  - (iv) encourage behaviour grossly prejudicial to the protection of the environment.

Provisions applicable to audiovisual commercial communications.  
*Added by:*  
*IV. 2010.5.*  
*Substituted by:*  
*LVI.2020.8.*

(2) All forms of audiovisual commercial communications for cigarettes and other tobacco products, as well as for electronic cigarettes and refill containers shall be prohibited.

(3) Audiovisual commercial communications for alcoholic beverages shall not be aimed specifically at minors and shall not encourage immoderate consumption of such beverages.

(4) Audiovisual commercial communications for medicinal products and medical treatment available only on prescription shall be prohibited.

(5) Audiovisual commercial communications shall not cause physical, mental or moral detriment to minors; therefore, they shall not directly exhort minors to buy or hire a product or service by exploiting their inexperience or credulity, directly encourage them to persuade their parents or others to purchase the goods or services being advertised, exploit the special trust minors place in parents, teachers or other persons, or unreasonably show minors in dangerous situations.



Cap. 550.

(6) Broadcasting of all forms of audiovisual commercial communications on food and beverage brands and products containing nutrients and substances with a nutritional or physiological effect, in particular fat, trans-fatty acids, salt or sodium and sugars, the type of products known as ‘High in Fat Sugar and Salt (HFSS)’, is prohibited immediately before or during or immediately after children’s programmes. For the purpose of classifying these products, audiovisual media service providers should follow regulations on the marketing of products that may have adverse effects on healthy lifestyles, that may be adopted in accordance with article 6 of the [Healthy Lifestyle Promotion and Care of Non-Communicable Diseases Act](#).

(7) The broadcasting of all forms of audiovisual commercial communications regarding products which are not suitable for children or which children in general cannot reasonably be expected to buy or attempt to buy, is prohibited immediately before, during and immediately after children’s programmes.

(8) Audiovisual commercial communications for alcoholic beverages in audiovisual media services shall comply with the following:

- (a) they shall not be aimed specifically at minors or, in particular, depict minors acquiring or consuming such beverage;
- (b) they shall not link the consumption of alcohol to enhanced physical performance or to driving;
- (c) they shall not create the impression that the consumption of alcohol contributes towards social or sexual success;
- (d) they shall not claim that alcohol has therapeutic qualities or that it is a stimulant, or sedative, or a means of resolving personal conflicts;
- (e) they shall not encourage immoderate consumption of alcohol or present abstinence therefrom or moderation therein in a negative light;
- (f) they shall not place emphasis on high alcoholic content as being a positive quality of the beverage.

Provisions  
applicable to  
audiovisual media  
services or  
programmes.  
*Added by:*  
*IV.2010.5.*  
*Amended by:*  
*LVI.2020.9.*

**16L.** (1) Audiovisual media services or programmes that are sponsored shall meet the following requirements:

- (a) their content and, in the case of television broadcasting, their scheduling shall in no circumstances 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) viewers shall be clearly informed of the existence of a sponsorship agreement. Sponsored programmes shall be clearly identified as such by the name, logo and, or any other symbol of the sponsor such as a reference to any of its products or services or a distinctive sign thereof in an appropriate way for programmes at the beginning, during and, or the end of the programmes.

(2) Audiovisual media services or programmes shall not be sponsored by undertakings whose principal activity is the manufacture or sale of cigarettes and other tobacco products, as well as electronic cigarettes and refill containers.

(3) The sponsorship of audiovisual media services or programmes by undertakings whose activities include the manufacture or sale of medicinal products and medical treatment may promote the name or the image of the undertaking, but shall not promote specific medicinal products or medical treatments available only on prescription in the Member State within whose jurisdiction the media service provider falls.

(4) News, current affairs programmes and programmes or religious services shall not be sponsored. Pop-up advertising during news and religious programmes or services is prohibited.

(5) The showing of a sponsorship logo during children's programmes, documentaries and religious programmes shall be prohibited.

**16M.** (1) This article shall apply only to programmes produced after 19 December 2009.

(2) Commercial product placement shall be allowed in all audiovisual media services, except in news and current affairs programmes, in consumer affairs programmes, in religious programmes and services and in children's programmes.

(3) Programmes that contain product placement shall meet the following requirements:

- (a) their content and organisation within a schedule, in the case of television broadcasting, or within a catalogue in the case of on-demand audiovisual media services, shall under no circumstances 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 include undue thematic placement of commercial products;
- (d) they shall not give undue prominence to the product in question;
- (e) viewers shall be clearly informed of the existence of

The inclusion of product placement.  
*Added by:*  
*IV. 2010.5.*  
*Amended by:*  
*VIII. 2011.7;*  
*XVI.2018.*  
*Fourth Schedule.*  
*Substituted by:*  
*LVI.2020.10.*

product placement by an appropriate identification 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.

(4) In any event, programmes shall not contain product placement of:

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- (a) cigarettes and other tobacco products, as well as electronic cigarettes and refill containers, or product placement from undertakings whose principal activity is the manufacture or sale of those products;
- (b) specific medicinal products or medical treatments available only on prescription;
- (c) tattoo drawing as defined in the [Control of Tattooing Act](#), which is broadcast between 6.00 a.m. and 9.00 p.m.;
- (d) alcoholic drinks of more than 1.2% alcohol which are broadcast between 6.00 a.m. and 9.00 p.m.;
- (e) gambling products which are broadcast between 6.00 a.m. and 7.00 p.m., infant formula and weapons and munitions:

Provided that notwithstanding the above, gambling products which are strictly related to a sporting event may be advertised on such programme throughout the duration of such event, subject to such restrictions and conditions as the Authority and, or the Malta Gaming Authority may impose thereon:

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Provided further that notwithstanding the first proviso hereof, if the Authority deems that, in the interest of public health and, or for the protection of minors and, or vulnerable persons as provided for in the [Gaming Definitions Regulations](#), the advertising envisaged in the first proviso hereof shall not occur, it may restrict and, or prohibit such advertising as it deems fit in its sole discretion.

Media Literacy.  
Added by:  
LVI.2020.11.

**16MA.** (1) The Minister, in consultation with the Authority, shall appoint a Board to be referred to as the "Media Literacy Development Board" consisting of not less than ten members including a number of media experts and chaired by a Chairperson so appointed by the Minister so that, after consultation and assistance from the Authority and other governmental entities, draw up a plan, promote and take all the necessary measures for the development of media literacy skills. The members of the Board shall hold office for a period of three years and each member may be substituted at the discretion of the Minister.

(2) The Board referred to in this article shall, amongst others, ensure that measures are prepared and implemented to enable citizens to have advanced media literacy skills and to have access to information in order to use, assess and create media content responsibly and securely.

(3) The Board referred to in this article shall ascertain that

measures taken are not limited to learning about tools and technologies, but should aim to equip citizens with fostering critical reflection necessary for the exercise of their own faculty of judgment, analyze complex realities and distinguish the difference between opinion and facts.

(4) This Board shall submit an annual report to the Minister on the implementation of the provisions of this article and shall assist the Minister so that by the 19th December 2022 and every three years thereafter, a report on this implementation is drawn up and submitted to the Commission.

(5) The Minister shall ensure that this Board has at its disposal all the resources necessary for the effective implementation of the provisions of this article and shall also determine the remuneration of its members.

**16N.** (1) (1) Providers of on-demand audiovisual media services that fall under Maltese jurisdiction should ensure that their catalogues contain at least a minimum share of 30% of European works and that they are given sufficient prominence.

European Works.  
Added by:  
IV: 2010.5.  
Substituted by:  
LVI.2020.13.

(2) The obligations relating to the promotion of European works do not apply for media service providers with a low turnover or low audience.

(3) The Authority may waive such obligations or requirements referred to in this article where it would be impracticable or unjustified by reason of the nature or theme of the audiovisual media services.

**16O.** (1) A provider of media services who intends to provide an on-demand audiovisual media service shall, before doing so, notify the Authority's Chairman by means of a written request in the form of a letter. A media service provider providing an on-demand service before the date of entry into force of this article shall notify the Authority by means of a written request in the form of a letter addressed to the Chairman of the Authority, within one month from date of entry of this article.

Obligations of on-demand audiovisual media service providers.  
Added by:  
IV: 2010.5.  
Substituted by:  
LVI.2020.14.

- (2) The notification shall contain the following information:
- (a) in the case of a natural person, the name, surname and address, identity card number, passport number or any other identification document as may be accepted by the Authority;
  - (b) in the case of a legal person, the name and address of the company and of the registered office.
- (3) Any person, whether natural or legal, shall provide the Authority with:
- (a) the name and surname of the registered editor as contained in the [Media and Defamation Act](#);
  - (b) his mobile number;

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- (c) his landline number;
- (d) his email address.

(4) When the Authority is notified in accordance with sub-article (1), the person concerned shall be deemed to be authorised to provide an on-demand audiovisual media service, subject to such conditions as may be imposed in accordance with this Part.

(5) The Authority may, by order in the Gazette, amend the conditions mentioned in sub-article (4). Any such amendment may only be made in objectively justified cases and in a proportionate manner. The Authority, before making any such amendment to the said conditions, shall give notice of its intention in such manner as it considers appropriate, inviting interested parties to make representations on the proposed amendments within such period of not less than thirty days as may be specified in the notice. The Authority may, in circumstances which it considers to be exceptional, shorten such period.

(6) An audiovisual media service provider that provides an on-demand audiovisual media service should ensure that adequate measures are in place to prevent minors from accessing content that could seriously impair their physical, mental or moral development.

(7) Audiovisual media services provided by audiovisual media service providers shall not include any:

- (a) incitement to violence or hatred directed against a group or a member of a group on any of the grounds referred to in Article 21 of the Charter of Fundamental Rights of the European Union;
- (b) public provocation to commit a terrorist offence as determined in accordance with Article 5 of Directive (EU) 2017/541.

(8) Every directive and, or measure that the Authority gives or takes for the purpose of the preceding sub-article shall be necessary and proportionate and shall aim to respect the rights and observe the principals reflected in the Charter of Fundamental Rights of the European Union.

Requirement to obtain other authorisations, etc., required at law.

*Added by:*  
*IV. 2010.5.*  
*Amended by:*  
*VIII. 2011.18.*

The use of co-regulation and self-regulation.

*Added by:*  
*LVI.2020.15.*

**16P.** Compliance with any notification made in terms of article 16O enabling a person to provide an on-demand audiovisual media service shall not relieve such a person from any requirement at law to apply for any other authorisation, licence or permit however so described, or from any obligation arising from this or any other law.

**16Q.** The media service providers, video-sharing platform service providers or organisations representing them, in cooperation, as necessary, with other sectors such as industry, trade, professional and consumer associations or organisations are encouraged to embrace the use of co-regulation and the fostering of self-regulation through codes of conduct adopted on a national

level in the fields coordinated by the Council Directive up to its limit. These codes shall:

- (a) be such that they are broadly accepted by the main stakeholders;
- (b) clearly and unambiguously set out their objectives;
- (c) provide for regular, transparent and independent monitoring and evaluation of the achievement of the objectives aimed at; and
- (d) provide for effective enforcement including effective and proportionate sanctions.

Part III C –

**Provisions Applicable for Video-Sharing Platform Services**

**16R.** (1) A video-sharing platform provider established in the territory of Malta within the meaning of article 8A and the other provisions of the Electronic Commerce Act and Article 3(1) of Directive 2000/31/EC shall fall under the jurisdiction of Malta.

(2) A video-sharing platform provider which is not established on Maltese territory pursuant to the preceding sub-article shall be deemed to be established on the territory of a Member State if that video-sharing platform provider: (a) has a parent undertaking or a subsidiary undertaking that is established in the territory of that Member State; or (b) is part of a group and another undertaking of that group is established in the territory of that Member State.

For the purposes of this article: "parent undertaking" means an undertaking which controls one or more subsidiary undertakings; "subsidiary undertaking" means an undertaking controlled by a parent undertaking, including any subsidiary undertaking of an ultimate parent undertaking; "group" means a parent undertaking, all its subsidiary undertakings and all other undertakings having economic and legal organisational links to them.

(3) For the purposes of applying sub-article (2), where the parent undertaking, the subsidiary undertaking or the other undertakings of the group are each established in different Member States, the video-sharing platform provider shall be deemed to be established in the Member State where its parent undertaking is established or, in the absence of such an establishment, in the Member State where its subsidiary undertaking is established or, in the absence of such an establishment, in the Member State where the other undertaking of the group is established.

(4) For the purposes of applying sub-article (3), where there are several subsidiary undertakings and each of them is established in a different Member State, the video-sharing platform provider shall be deemed to be established in the Member State where one of the subsidiary undertakings first began its activity, provided that it maintains a stable and effective link with the economy of that

*Added by:  
LVI.2020.17.*

Obligations of  
video-sharing  
platform providers.  
*Added by:  
LVI.2020.17.  
Cap. 426.  
Cap. 426.*

Member State. Where there are several other undertakings which are part of the group and each of them is established in a different Member State, the video-sharing platform provider shall be deemed to be established in the Member State where one of these undertakings first began its activity, provided that it maintains a stable and effective link with the economy of that Member State.

(5) Articles 8A, 19, 20, 21 and 22 of the [Electronic Commerce Act](#) and Articles 3 and 12 to 15, both articles included, of Directive 2000/31/EC shall apply to video-sharing platform providers deemed to be established in a Member State in accordance with sub-article (2).

(6) A video-sharing platform provider established or deemed to be established in Malta shall notify the Authority in writing by means of a letter addressed to the Chairman of the Authority, which notification shall include: (a) in the case of a natural person, the name, surname and address, identity card number, passport number or any other identification document as may be accepted by the Authority; (b) in the case of a legal person, the name and address of the company and of the registered office.

(7) The Authority shall establish and maintain an up-to-date list of the video-sharing platform providers established or deemed to be established in Malta and indicate on which of the criteria set out in the preceding sub-articles their jurisdiction is based. The Authority is entitled to declare, *ex officio*, a video-sharing platform provider as an established provider in Malta.

**16S.** (1) Without prejudice to articles 19, 20, 21 and 22 of the [Electronic Commerce Act](#) and Articles 12 to 15 of Directive 2000/31/EC, video-sharing platform providers under the jurisdiction of Malta shall take the necessary measures to protect:

- (a) minors from programmes, user-generated videos and audiovisual commercial communications which may impair their physical, mental or moral development in accordance with article 16JA;
- (b) the general public from programmes, user-generated videos and audiovisual commercial communications containing incitement to violence or hatred directed against a group of persons or a member of a group based on any of the grounds referred to in Article 21 of the Charter of Fundamental Rights of the European Union;
- (c) the general public from programmes, user-generated videos and audiovisual commercial communications containing content the dissemination of which constitutes an activity which is a criminal offence under Union law, namely public provocation to commit a terrorist offence as set out in Article 5 of

Measures to protect minors applicable to video-sharing platform providers.  
Added by:  
LVI.2020.17.  
Cap. 426.

Cap. 9.

Directive (EU) 2017/541 and in Book First, Part II, Title IX, Sub-title IVA of the [Criminal Code](#), offences concerning child pornography as set out in Article 5(4) of Directive 2011/93/EU and in Book First, Part II, Title VII, Sub-title II of the Criminal Code and offences concerning racism and xenophobia as set out in Article 1 of Framework Decision 2008/913/JHA and as also provided for in articles 83B and 83C of the [Criminal Code](#).

(2) Video-sharing platform providers under the jurisdiction of Malta shall comply with the requirements set out in article 16K with respect to audiovisual commercial communications that are marketed, sold or arranged from the video-sharing platform providers.

(3) Video-sharing platform providers under the jurisdiction of Malta shall take the appropriate measures to comply with the requirements set out in article 16K with respect to audiovisual commercial communications that are not marketed, sold or arranged by those video-sharing platform providers, taking into account the limited control exercised by those video-sharing platforms over those audiovisual commercial communications.

(4) Video-sharing platform providers shall clearly inform users where programmes and user-generated videos contain audiovisual commercial communications, provided that such communications are declared under paragraph (c) of sub-article (6) or the provider has knowledge of that fact.

(5) The Authority shall encourage the use of co-regulation and the fostering of self-regulation through codes of conduct as provided for in article 16Q aiming at effectively reducing the exposure of children to audiovisual commercial communications for foods and beverages containing nutrients and substances with a nutritional or physiological effect, in particular fat, trans-fatty acids, salt or sodium and sugars, of which excessive intakes in the overall diet are not recommended. Those codes shall aim to provide that such audiovisual commercial communications do not emphasise the positive quality of the nutritional aspects of such foods and beverages.

(6) For the purposes of sub-articles (1) to (3), the appropriate measures shall be determined in the light of the nature of the content in question, the harm it may cause, the characteristics of the category of persons to be protected as well as the rights and legitimate interests at stake, including those of the video-sharing platform providers and the users having created or uploaded the content as well as the general public interest. Those measures shall consist of, as appropriate:

- (a) including and applying in the terms and conditions of the video-sharing platform services the requirements referred to in sub-article (1);



- (b) including and applying in the terms and conditions of the video-sharing platform services the requirements set out in article 16K for audiovisual commercial communications that are not marketed, sold or arranged by the video-sharing platform providers;
- (c) having a functionality for users who upload user-generated videos to declare whether, as far as they know or can be reasonably expected to know, such videos contain audiovisual commercial communications;
- (d) establishing and operating transparent and user-friendly mechanisms for users of a video-sharing platform to report or flag to the video-sharing platform provider concerned the content referred to in sub-article (1) provided on its platform;
- (e) establishing and operating systems through which video-sharing platform providers explain to users of video-sharing platforms what effect has been given to the reporting and flagging referred to in paragraph (d)
- (f) establishing and operating age verification systems for users of video-sharing platforms with respect to content which may impair the physical, mental or moral development of minors;
- (g) establishing and operating easy-to-use systems allowing users of video-sharing platforms to rate the content referred to in sub-article (1);
- (h) providing for parental control systems that are under the control of the end-user with respect to content which may impair the physical, mental or moral development of minors;
- (i) establishing and operating transparent, easy-to-use and effective procedures for the handling and resolution of users' complaints to the video-sharing platform provider in relation to the implementation of the measures referred to in paragraphs (d) to (h);
- (j) providing for effective media literacy measures and tools and raising users' awareness of those measures and tools.

(7) Personal data of minors collected or otherwise generated by video-sharing platform providers pursuant to sub-articles 6(f) and 6(h) shall not be processed for commercial purposes, such as direct marketing, profiling and behaviourally targeted advertising.

(8) For the purposes of the protection of minors provided for in sub-article (1)(a), the most harmful content shall be subject to the strictest access control measures.

(9) The Authority shall ensure that all video-sharing platform providers under its jurisdiction apply such measures. Those measures



shall be practicable and proportionate, taking into account the size of the video-sharing platform service and the nature of the service that is provided. Those measures shall not lead to any *ex-ante* control measures or upload-filtering of content which do not comply with Article 15 of Directive 2000/31/EC.

(10) The Authority shall assess the appropriateness of the measures referred to in sub-article (3) taken by video-sharing platform providers and has the right to issue all directives which it considers necessary or expedient for the proper execution referred to in this article.

(11) In case of disputes arising between users and video-sharing platform providers relating to the application of the provisions of this article, the provisions on the investigation of complaints shall apply in accordance with article 21A:

Provided that this shall not deprive the rights of the user to have recourse to any other means that may offer legal protection including, if necessary, recourse to the Courts of ordinary jurisdiction and Courts of Constitutional jurisdiction where this is permitted by law.

#### PART IV

### Relations between the Minister responsible for Wireless Telegraphy and the Authority

17. In this Part -  
"Minister" means the Minister responsible for communications;  
and

Interpretation.  
*Amended by:*  
*VIII. 2011.8.*

"broadcasting frequencies" means particular frequencies for the transmission of radio, television and other signals, emitted from particular sources at particular strengths and in particular directions.

18. (1) The Minister may, by notice assign to the Authority, for the purpose of the provision of services to be provided, licensed or contracted by it under this Act, such broadcasting frequencies as he may determine; and any frequency so assigned shall be taken to be so assigned for the purpose only of being used for the provision of those services:

Broadcasting  
frequencies.  
*Amended by:*  
*XV. 2000.9;*  
*VIII. 2011.9.*

Provided that after assigning a broadcasting frequency in accordance with this sub-article the Minister may vary from time to time the conditions regarding the use of that frequency by the holder of the broadcasting licence after the Minister has heard the submissions of the said licensee about the proposal for variation. A decision of the Minister taken in terms of this proviso shall -

- (a) come into force after the said licensee is granted reasonable notice of the date of entry into force of the decision;
- (b) comply with the proportionality principle and is not taken in a discriminatory manner;

- (c) be in writing;
- (d) include the reasons upon which it is based; and
- (e) be notified to the holder of the licence and published in the Gazette.

(2) Any frequency assigned by the Minister under sub-article (1) may be so assigned for use only in such area or areas as may be specified by the Minister when making the assignment.

(3) In the grant of radio and television broadcasting licences the Authority shall except where such broadcasts are to be transmitted exclusively by wire, indicate the broadcasting frequency to be used by the licensee, and it shall be the duty of the licensee, to limit his broadcasts to such broadcasting frequency. The Authority shall, in conjunction with the Minister, impose such conditions as it deems fit with regard to the apparatus to be used by the licensee and the manner in which such equipment is to be used by the licensee and the licensee shall abide by such conditions.

(4) The Authority shall ensure that the licensee limits his transmissions to the broadcasting frequency indicated in the licence and that he observes such conditions as may be imposed upon him in virtue of sub-article (3).

(5) The Minister shall give the Authority such technical assistance as it may reasonably require in fulfilment of its duties under this Act, against such payment as may from time to time be agreed to between the Minister and the Authority.

(6) Notwithstanding the provisions of sub-articles (1) to (5), the following provisions shall apply to nationwide television services:

- (a) in the case of an applicant for a nationwide commercial broadcast television service, he shall inform the Authority on which electronic communications network the service will be carried. In doing so, the said applicant shall inform the Authority of the details of the network operator and the specific frequency on which the said service shall be transmitted;
- (b) in the case of the public service broadcaster and of general interest objective television broadcasting services, transmission capacity shall, subject to such conditions as may be applicable to the use of such transmission capacity, be allotted by the Authority on the general interest objective network referred to in article 40(1).

## PART V

### Codes

**19.** (1) Advertisements shall only be allowed to be inserted in the programmes broadcast by licensees and contractors of the Authority as long as the provisions of this Act are complied with in relation thereto. Other persons providing broadcasting services in

Malta shall be allowed to include advertisements and sponsorships only if the Minister, after consultation with the Minister for Wireless Telegraphy, has given directions to the Authority to that effect by notice in writing, stipulating in such notice which sub-articles if any, or parts thereof, of this article shall have effect for such other persons.

- (2) (a) It shall be the duty of the Authority subject to sub-article (1), to secure that the provisions of the Advertising and Sponsorship Code in the Third Schedule to this Act are complied with.
- (b) The Authority may, in conjunction with the Minister, from time to time amend, or substitute the Third Schedule to this Act.
- (3) The Authority may, in the discharge of its general responsibility for advertisements and methods of advertising, impose requirements as to advertisements and methods of advertising which go beyond the requirements imposed by the code under this article.
- (4) The methods of control exercisable by the Authority for the purpose of securing that the provisions of the code under this article are complied with, and for the purpose of securing compliance with requirements imposed under sub-article (3) which go beyond the requirements of the code, shall include a power to give directions to any person providing broadcasting services in Malta with respect to the classes and descriptions of advertisements and methods of advertising to be excluded, or to be excluded in particular circumstances, or with respect to the exclusion of a particular advertisement, or its exclusion in particular circumstances.
- (5) The Authority may give directions to any person providing broadcasting services in Malta with respect to the time when advertisements are to be allowed.
- (6) Subject to sub-articles (7), (8) and (9), nothing shall be included in any programmes broadcast by the Authority or by any other person providing broadcasting services in Malta, whether in an advertisement or not, which states, suggests or implies (or could reasonably be taken to state, suggest or imply) that any part of any programme broadcast by the Authority or any other person providing broadcasting services in Malta, as the case may be, which is not an advertisement has been supplied or suggested by any advertiser; and, except as an advertisement, nothing shall be included in any programme broadcast by the Authority or by any other person providing broadcasting services in Malta, which could reasonably be supposed to have been included in the programme in return for payment or other valuable consideration to the relevant person providing broadcasting services in Malta.

(7) (*Deleted by Act IV. 2010.6.*)

(8) Nothing in sub-article (6) shall be construed as prohibiting the inclusion of any of the following matters in any part of a programme broadcast by the Authority or by any person providing

broadcasting services in Malta, which is not an advertisement, namely -

- (a) items designed to give publicity to the needs or objects of any association or organisation conducted for charitable or benevolent purposes;
- (b) reviews of literary, artistic or other publications or productions, including current entertainments;
- (c) items consisting of factual portrayals of doings, happenings, places or things, being items which in the opinion of the Authority are proper for inclusion by reason of their intrinsic interest or instructiveness and do not constitute an undue element of advertisement;
- (d) announcements of the place of any performance included in the programme, or of the name and description of the persons concerned as performers or otherwise in any such performance, announcements of the number and description of any record so included, and acknowledgments of any permission granted in respect of any such performance, persons or record; and
- (e) such other matters, if any, as may be prescribed by regulations made by the Authority in conjunction with the Minister.

(9) Nothing in sub-article (6) shall be construed as prohibiting the inclusion of an advertisement in any programme broadcast by the Authority or by any person providing broadcasting services in Malta, by reason only of the fact that it is related in subject-matter to any part of that programme which is not an advertisement.

(10) In so far as sub-article (6) prohibits the inclusion in programmes (other than advertisements) broadcast by the Authority or by any person providing broadcasting services in Malta, of anything which could reasonably be supposed to have been included therein in return for payment or other valuable consideration to the Authority or the relevant person providing broadcasting services in Malta, that sub-article shall not apply to any programme so broadcast as part of an educational broadcasting service approved by the Authority.

(11) Directions under this article may be, to any degree, either general or specific and qualified or unqualified and directions under sub-article (4) may, in particular, relate to -

- (a) the greatest amount of time to be given to advertisements in any hour or other period,
- (b) the minimum interval which must elapse between any two periods given over to advertisements and the number of such periods to be allowed in any programme or item in a programme or in any hour or day,
- (c) the exclusion of advertisements from a specified broadcast, and may make different provision for

different parts of the day, different days of the week, different types of programmes or for other differing circumstances:

Provided that no such direction shall be given which is shown not to be reasonably justifiable in a democratic society. In giving such directions the Authority shall also be guided by such international instruments relating thereto, and to which Malta is a party.

(12) Orders for the insertion of advertisements may be received through advertising or other agents or direct from the advertiser, but the Authority, broadcasting operators, licensees and contractors shall not act as advertising agents.

**20.** (1) The Authority shall, in conjunction with the Minister draw up, and from time to time review, a code giving guidance -

Code for programmes other than advertisements.

- (a) as to the rules to be observed in regard to the showing of violence, and in regard to the inclusion in sound broadcasts of sounds suggestive of violence, particularly when children and young persons may be expected to be watching or listening to the programmes; and
- (b) as to such other matters concerning standards and practice for programmes broadcast by the Authority or by any person providing broadcasting services in Malta, as the Authority may consider suitable for inclusion in the code;

and, in considering what other matters ought to be included in the code, the Authority shall have special regard to programmes broadcast when children and young persons may be expected to be watching or listening.

(2) The Authority shall secure that the provisions of the code under this article are observed in relation to all programmes broadcast by any person providing broadcasting services in Malta.

(3) The Authority may, in the discharge of its general responsibility for programmes, impose requirements as to standards and practice for such programmes which go beyond, or relate to matters not covered by, the provisions of the code under this article.

(4) The methods of control exercisable by the Authority for the purpose of securing that the provisions of the code under this article are observed, and for the purpose of securing compliance with requirements imposed under sub-article (3) which go beyond, or relate to matters not covered by, the code, shall include a power to give directions to any person providing broadcasting services in Malta imposing prohibitions or restrictions in respect of items of a specified class or description or in respect a particular item.

(5) The provisions of this article shall not apply to advertisements covered by the Advertising and Sponsorship Code referred to in article 19.

Code for teletext transmissions.  
Amended by:  
VIII. 2011.10.

**21.** (1) If and when the Authority considers it necessary or expedient, it -

- (a) may, in conjunction with the Minister, draw up, and from time to time review, a code giving guidance as to such matters concerning standards and practice for teletext transmissions (including advertisements) broadcast by the Authority or by any other person providing broadcasting services in Malta, as the Authority may consider suitable for inclusion in the code; and
- (b) shall secure that the provisions of the code are observed in relation to all teletext transmissions broadcast by the Authority or by any other person providing broadcasting services in Malta.

(2) The Authority may, in the discharge of its general responsibility to monitor and supervise all broadcasting services provided in Malta, impose requirements as to standards and practice for teletext transmissions broadcast by it or by any other person providing broadcasting services in Malta, which go beyond, or relate to matters not covered by, the provisions of the code.

(3) The methods of control exercisable by the Authority -

- (a) for the purpose of securing that the provisions of the code are observed; and
- (b) for the purpose of securing compliance with requirements imposed under sub-article (2) which go beyond, or relate to matters not covered by, the code,

shall include a power to give directions to any person providing teletext services imposing prohibitions or restrictions as respects items of a specified class or description or as respects a particular item.

(4) For the purposes of this article, the term "teletext transmissions" shall include electronic programme guides and radio data systems.

Complaints procedure.  
Added by:  
XV. 2000. 10.

**21A.** (1) Affected third parties may apply to the Authority seeking effective compliance by broadcasters with the provisions of this Act.

(2) The Authority shall draw up a Code for the investigation and determination of complaints.

(3) Notwithstanding the provisions of any other law, the Authority shall be entitled to provide a copy of any broadcast to any person feeling aggrieved by the content of such broadcast. Such copy shall be provided against payment of such reasonable cost-based fee as the Authority may determine.

(4) The Authority may make regulations providing for the procedure, time limit and fees for the granting of a copy of any broadcast by a broadcasting station to any person feeling aggrieved by the content of such broadcast.

**21B.** The Authority shall publish in the Gazette all Codes made in terms of this Part of this Act.

Publication of Codes.  
Added by:  
*XV. 2000. 10.*

**22.** (1) It shall be the duty of the Authority to satisfy itself that the programmes broadcast by the Authority or by any person providing broadcasting services in Malta do not include, whether in an advertisement or otherwise, any technical device which, by using images of very brief duration or by any other means, exploits the possibility of conveying a message to, or otherwise influencing the minds of, members of an audience without their being aware, or fully aware, of what has been done.

Prohibition of certain devices.

(2) It is prohibited to broadcast coded messages.

**22A.** (1) Third parties wishing to complain to the Authority about any accessibility issue as provided for in article 16JB shall submit their complaint in writing to the Chief Executive of the Authority or by registering their complaint electronically through the Authority's website.

Complaints regarding accessibility.  
Added by:  
*LVI.2020.18.*

(2) The Chief Executive shall investigate the complaint by ensuring that the audiovisual media service provider followed the action plan laid down in article 16JB(1).

(3) The Chief Executive shall forward the complaint to the audiovisual media service provider and fix a short and peremptory time-limit for the audiovisual media service provider to submit a written reply to the complaint. The reply shall be accompanied by any documents that the audiovisual media service provider deems relevant to the case.

(4) Upon expiry of the time-limit established in accordance with the preceding sub-article, the Chief Executive shall determine whether the complaint is *prima facie* justified.

(5) In the event that the Chief Executive is of the opinion that the complaint is *prima facie* justified, he shall inform the audiovisual media service provider in writing of the deficiencies found and shall in the same communication establish a reasonable time for the audiovisual media service provider to comply with the action plan submitted by him in accordance with article 16JB. A copy of this communication shall be sent to the complaining third party.

(6) In the event that the audiovisual media service provider fails to comply with the action plan within the set time-limit, the Chief Executive shall report on this failure to the Chairperson and the members of the Authority. After taking into account all of the circumstances, the Authority may decide to issue a directive to the audiovisual media service provider to comply with the action plan in terms of article 15.

### Programme Schedules

Submission for  
Authority's  
approval.  
*Amended by:*  
*VIII. 2011.11.*

23. (1) Without prejudice to the generality of the provisions of article 15, and in addition to all the powers vested in the Authority in virtue of that article, in the case of programmes other than advertisements, in the discharge of its duties under article 20, in relation to both television and sound broadcasts, the Authority shall examine the programme schedules to be submitted by all persons providing broadcasting services in Malta, and for such purpose all persons providing such services in Malta shall submit such programme schedules to the Authority at such intervals and at such times, as the Authority may direct:

Provided that, other than with regard to sub-article (1), all classes of radio and television broadcasting services, other than those provided as part of public broadcasting services, shall be exempt from the requirements of all the other sub-articles of this article:

Provided further that the Authority may exempt all or any classes of broadcasting services, other than public broadcasting services, from requirements of this article.

(2) Subject to sub-articles (1) and (6), no person providing broadcasting services in Malta may transmit any programme unless it forms part of a programme schedule approved in writing, in advance, by the Authority, in accordance with this article.

(3) A programme schedule -

(a) shall be drawn up in consultation with the Authority, and

(b) shall be for a period to be determined by the Authority;

and the Authority may give to any person providing broadcasting services in Malta such directions as appear to the Authority expedient for the purpose of ensuring that the Authority will have sufficient time to discharge its responsibilities in the consideration of programme schedules.

(4) The Authority may give directions, which may be, to any degree, either general or specific and qualified or unqualified -

(a) as to the exclusion of any item from a programme schedule;

(b) as to the inclusion in, or in a particular part of, a programme schedule of an item, or items, of a particular category; or

(c) as to the inclusion in a particular part of a programme schedule of a particular item;

and the Authority shall not approve a programme schedule until it is satisfied that it conforms with any directions given under this article.

(5) Without prejudice to the Authority's power to approve for the purposes of this article a revised or amended version of a programme schedule previously approved by it, the Authority may,



if it thinks fit so to do in view of any change of circumstances occurring after a programme schedule has been approved by it, permit any person providing broadcasting services in Malta to make such alterations in that programme schedule as the Authority may approve, being alterations proposed to it in any convenient manner; and a programme schedule in which alterations have been made by virtue of this sub-article shall, as so altered, be treated as having been approved by the Authority in accordance with this article.

(6) The Authority may give directions, which may be, to any degree, either general or specific and conditional or unconditional, authorising the making of alterations in any approved programme schedule without prior reference to the Authority -

- (a) where it is difficult or impracticable for the person providing broadcasting services in Malta to communicate with the Authority in the time available, or
- (b) in the event of a technical breakdown;

and the programmes contained in a programme schedule in which alterations are made by virtue of this sub-article may be broadcast by the relevant person providing broadcasting services in Malta notwithstanding those alterations.

(7) The Authority's approval under this article may be given subject to such exception, reservations and qualifications as the Authority thinks fit; and the Authority may at any time call for further particulars of a programme schedule submitted to it, or of any item in the programme schedule.

## PART VII

### Financial Provisions

24. (1) (a) The revenue of the Authority shall consist of -
- (i) such sums as Parliament shall each year determine to be payable to the Authority;
  - (ii) thirty *per centum*, or a percentage being not less than fifteen *per centum* and not more than fifty *per centum* which may by regulation be stipulated by the Prime Minister in consultation with the Minister responsible for finance, of the revenue accruing to the Government from wireless and television licensees after deducting a *per centum* in respect of expenditure reasonably incurred for the collection thereof;
  - (iii) the revenue accruing to the Authority from broadcasting licences, as provided in article 14(1); and
  - (iv) such sums as may from time to time be payable to the Authority by a broadcasting contractor or cable or other broadcasting operator as provided in article 14(2) and article 3(3).

Revenue of  
Authority.  
Amended by:  
L.N. 424 of 2007.

(b) The sum to be paid to the Authority in terms of paragraph (a)(i) and (ii) shall not be less than five hundred and eighty-two thousand and three hundred and fifty euro (582,350) per year, and any sum payable to the Authority in virtue of the said paragraphs shall be a charge upon the Consolidated Fund.

(2) Sub-article (1) shall be without prejudice to the provisions of article 118(8) of the Constitution.

Payments by  
Authority.

**25.** (1) The revenue of the Authority may be applied for the payment of -

(a) remuneration, allowances, salaries, wages, special contributions, gratuities, pensions, and working expenses; and

(b) all other expenses which the Authority may properly incur in connection with the performance of its functions under this Act.

(2) No expenditure shall be made or incurred by the Authority that is not covered by its revenue, except as may be necessary for the fulfilment of its functions under article 119(1) of the Constitution.

(3) Any excess of the revenue of the Authority for any financial year over the total sums properly chargeable by the Authority to the revenue account for that year shall be applied by the Authority, due regard being had to the desirability of applying such moneys for the further improvement and extension of broadcasting services in Malta, in such manner as the Prime Minister, after consultation with the Minister responsible for finance, and with the Authority, may direct.

(4) Any direction given under the last preceding sub-article may require the whole or any part of any such excess as aforesaid to be paid into the Consolidated Fund.

Investment of  
funds.

**26.** Any funds of the Authority not immediately required to be expended in the meeting of any obligations or the carrying out of any functions of the Authority may be invested from time to time in a reserve fund which is to be established by the Authority.

Estimates of the  
Authority.

**27.** (1) The Authority shall in every financial year cause to be prepared, and shall not later than eight weeks before the end of each such year adopt, estimates of the income and expenditure of the Authority for the next following financial year.

(2) The estimates shall be made out in such form and shall contain such information and such comparisons with previous years as the Prime Minister, after consultation with the Minister responsible for finance, may require.

(3) A copy of the estimates of the Authority shall, upon their adoption by the Authority, be sent forthwith by the Authority to the Prime Minister.

(4) The Prime Minister shall, at the earliest opportunity, and not later than the first sitting of the House of Representatives after

six weeks from the receipt of the copy of the estimates of the Authority, cause such estimates to be laid before the House of Representatives.

(5) The Authority's estimates shall, as soon as practicable, be published in the Government Gazette.

(6) All duties imposed by sub-articles (1) to (5) shall be without prejudice to the provisions of article 118(8) of the Constitution.

**28.** (1) The Authority shall cause to be kept proper accounts and other records in respect to its functions and shall prepare in respect of each financial year a statement of accounts in such form as the Prime Minister may direct, being a form which shall conform with the best accounting standards.

Accounts and  
Audit.  
*Amended by:  
XVI. 1997.8.*

(2) The accounts of the Authority shall be audited by an auditor or auditors to be appointed by it and approved by the Prime Minister:

Provided that the Prime Minister may require the books and accounts of the Authority to be audited or examined by the Auditor General who shall for this purpose have power to carry out such physical checking and other verifications as he may deem necessary.

(3) Before the end of each financial year, the Prime Minister shall cause to be laid on the Table of the House of Representatives, together with the estimates referred to in article 27, a copy of the statement of account and any financial report in respect of the immediately preceding full year.

**29.** (1) All moneys of the Authority accruing from any operations under this Act shall be paid into a bank or banks appointed by resolution of the Authority and approved by the Prime Minister. Such moneys shall, as far as practicable, be paid into the bank from day to day, except such sum as the Authority may authorise to be retained to meet petty disbursements and immediate payments.

Cash deposits and  
payments.

(2) All payments out of the funds of the Authority, shall be made by such officer or officers of the Authority as the Authority shall appoint or designate for that purpose.

(3) Cheques against or withdrawals from any bank account of the Authority shall be signed by such officer of the Authority as may be designated by the Authority for that purpose and shall be countersigned by the Chairman or such other member of the Authority or other officer of the Authority as may be authorised by the Authority for that purpose.

**30.** (1) The Authority shall, not later than the end of March of each year make and transmit to the Prime Minister a report dealing generally with the activities of the Authority during the previous financial year and of its plans for subsequent years. The Prime Minister shall as soon as possible lay a copy of that report on the Table of the House.

Annual Report.

(2) The report referred to in sub-article (1) shall include the results of independent audience research which ascertains:

- (a) the state of listenership or viewership of broadcasting services provided in Malta;
- (b) the state of public opinion concerning programmes included in broadcasting services provided in Malta;
- (c) any effects of such programmes on the attitudes or behaviour of those who watch them; and
- (d) the types of programmes that members of the public would like to be included in broadcasting services provided in Malta.

(3) The report referred to in sub-article (1) shall, in the same or in a different format as the Authority may deem necessary, be published and made available to the general public, at a reasonable charge, by the end of June of each year.

#### PART VIII

##### Contracts and Power to Acquire or Dispose of Property

Contracts and power to acquire or dispose of property.

*Amended by:*  
*L.N. 424 of 2007.*  
*Substituted by:*  
*VIII. 2009.4.*  
Cap. 601.

**31.** The Authority may enter into any contract for the supply of goods or materials or for the execution of works in terms of any regulations made under the [Public Finance Management Act](#) regulating public contracts.

Power to acquire or dispose of property.

**32.** (1) Subject to the provisions of the last preceding article, the Authority may, for the purpose of the due and efficient discharge of its functions under this Act -

- (a) purchase or otherwise acquire and hold any movable property and dispose of any such property; and
- (b) purchase or otherwise acquire and hold any lands or other immovable property or interest therein and take any such property on lease or any title whatsoever.

(2) The Authority may, with the written approval of the Prime Minister, alienate any lands or other immovable property or any interest therein, in whichever way acquired by the Authority, and may also, with the consent of the Prime Minister, grant a lease of such lands or property for any period.

#### PART IX

##### Miscellaneous Provisions

Advisory committees.

**33.** The Authority may appoint, or designate any organ, as advisory committees to give advice to the Authority and to any person providing broadcasting services in Malta, on educational and religious matters, on standards of conduct in the advertising of goods or services, and on such other matters as the Authority may determine.

**34.** (1) Without prejudice to all its other powers and functions in accordance with the Constitution, and this Act, the Authority shall have the power and duty to consider complaints of -

Unjust and unfair treatment or infringement of privacy.

- (a) unjust or unfair treatment in sound or television programmes broadcast by any person providing broadcasting services in Malta;
- (b) unwarranted infringement of privacy in, or in connection with the obtaining of material included in, sound or television programmes so broadcast.

(2) For the purposes of this article, complaints are to be submitted in writing by the person affected or by a person authorised by him to make the complaint for him.

(3) For the purposes of this article -  
"the person affected" -

- (a) in relation to any unjust or unfair treatment as is mentioned in sub-article (1), means a participant in the programme in question who was the subject of that treatment or a person who, whether such a participant or not, had a direct interest in the subject-matter of that treatment;
- (b) in relation to any such unwarranted infringement of privacy as is so mentioned, means a person whose privacy was infringed;

and

"unjust or unfair treatment" includes treatment which is unjust or unfair because of the way in which material included in a programme had been selected or arranged.

**35.** (1) The Prime Minister, in conjunction with the Authority, may make regulations to give better effect to the provisions of this Act.

Power to make regulations.

(2) Such regulations may repeal the provisions of the Fourth Schedule:

Provided that until such regulations are made in terms of sub-article (1), the Fourth Schedule shall continue to apply.

**36.** (1) The Prime Minister may, if it appears to him to be necessary or expedient to do so, advise the President to require the Authority, by notice in writing, to broadcast and/or to cause the broadcast by any person providing broadcasting services in Malta, free of charge, and at such times as may be specified in the notice, any announcement or other material so specified, with or without visual images of any picture, scene or object mentioned in such announcement or other material, and it shall be the duty of the Authority and of any person providing broadcasting services to comply with any such notice.

Powers of the President.

(2) Where the Authority, or any person providing broadcasting services in Malta, publishes any announcement or other material in pursuance of a notice under sub-article (1), it may announce that it

is so doing in pursuance of such a direction.

(3) The Prime Minister may, if it appears to him to be necessary or expedient to do so, advise the President to require the Authority, by notice in writing, to refrain from broadcasting any matter or classes of matter specified in the notice, and it shall be the duty of the Authority and of any person providing broadcasting services to comply with any such notice.

(4) The Prime Minister may, if it appears to him to be necessary or expedient to do so, advise the President to give directions to the Authority, by notice in writing, as to the maximum time, the minimum time, both the maximum and minimum time, which is to be given each day to broadcasts from any sound or television broadcasting station, and as to the hours of the day in which such broadcasts are or are not to be given, and it shall be the duty of the Authority and of any person providing broadcasting services to comply with any such notice.

(5) The duties imposed on the Authority by this article shall be without prejudice to the provisions of article 118(8) of the Constitution.

(6) The powers of the President in terms of this article may only be exercised in so far as they are reasonably justifiable in a democratic society.

**37.** (1) The Prime Minister may, by notice in writing, give directions to the Authority to conform, through regulations and directions made or issued in terms of this Act, with any international obligation of Malta.

(2) The Prime Minister may make regulations:

- (a) to reserve for works originating in such countries as the Prime Minister may by order prescribe and for works mentioned in article 13(2)(d), proportions or maximum limits of broadcasting transmission time;
- (b) to reserve a proportion of broadcasting transmission time or of a station's programming budget for works of independent producers originating in such countries as the Prime Minister may determine;
- (c) to promote the distribution and production of audio-visual works and television broadcasts;
- (d) to regulate the television transmission of events which he considers as being of major importance for society and to order that such events be transmitted via live coverage or deferred coverage on free television accessible to the general public;
- (e) to define which television broadcasters and which television broadcasting activities fall within the jurisdiction of Malta and to extend the jurisdiction of Malta upon broadcasters and television broadcasting activities so as to render more effective the provisions of this Act or to ensure the implementation of international obligations which Malta assumes or

International obligations.  
Amended by:  
*XV. 2000.11;*  
*XV. 2006.15.*

intends to assume;

- (f) to implement any European Community obligation in matters relating to broadcasting;
- (g) to prescribe the measures which may be taken in respect of broadcasters or other persons who fail to comply with any regulations made under the preceding paragraphs of this sub-article and to render article 41 applicable to the violation of regulations made under this sub-article.

(3) Regulations made under sub-article (2) may, for the purpose of the proper implementation and enforcement thereof, provide for the granting of the power to the Broadcasting Authority and to any of its officers and employees to enter and search any premises, to have access to any relevant document in any form, to require any person to supply any relevant information, to carry an on-site inspection, to issue an order to any person to cease from doing any thing which constitutes an infringement of this Act or of any subsidiary legislation made thereunder and to demand from any person an undertaking to desist from doing any such thing and to publish any such undertaking and any decision of the Authority, its officers and employees related to the said subsidiary legislation.

**38.** (1) Any person who acts in contravention of any of the provisions of this Act or of any regulation or direction made or given thereunder or fails to abide with any conditions imposed in any licence granted by this Act or to act in conformity with any such licence or any provision of this Act, or regulation or direction made or given thereunder shall be guilty of an offence against this Act and shall, on conviction, be liable to imprisonment not exceeding six months and to a fine (*multa*) not exceeding eleven thousand and six hundred and forty-six euro (11,646) or to both such fine and imprisonment:

Offences and penalties.  
Amended by:  
L.N. 424 of 2007.

Provided that in the case of a second conviction the penalty shall be not less than a fine (*multa*) of two thousand and three hundred and twenty-nine euro (2,329) and in the case of a third and subsequent conviction the penalty shall be not less than a fine (*multa*) of eleven thousand and six hundred and forty-six euro (11,646):

Provided further that in the case of a continuing offence there shall be awarded in addition an additional fine (*multa*) of not more than two hundred and thirty-two euro (232) for each day during which the offence has continued.

(2) It shall be the duty of every person who owns or otherwise has in his possession any equipment or other movable thing whatsoever that may be used for the purposes of broadcasting to ensure at all times that such equipment is not used in the making of any broadcast in contravention of the provisions of this Act, and without prejudice to the provisions of any other law relating to forfeiture, any equipment or other movable things whatsoever, whether of the same kind or not, kept or used for or in connection with the provision of broadcasting services in contravention of any



of the provisions of this Act or the making of any broadcast in contravention of any of the provisions of this Act, shall be forfeited in favour of the Government, and such forfeiture shall be ordered by the court in any case and whether or not such equipment, or thing are the property of, or are kept or used by, the person convicted or are the property of or are kept or used by any other person whatsoever.

(3) For the purposes of sub-article (1) a broadcasting contract as is referred to in article 3(4) shall be deemed to be a licence granted under this Act.

(4) Where an offence against this Act is committed by a body corporate, any person who at the time of the commission of the offence was a director, manager, secretary, or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence, unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

Exemptions.  
Amended by:  
*XV. 2000.12.*

Cap. 294.

Cap. 123.

Cap. 399.

Cap. 250.

General interest  
objective network  
operator and  
general interest  
broadcasting  
content licensees.  
Substituted by:  
*XV. 2000.13;*  
*VIII. 2011.13.*  
Cap. 399.

**39.** (1) No stamp duty shall be payable by the Authority in respect of any instrument, writing or print in respect of which, but for the provisions of this article, duty would be payable by the Authority under the Duty on Documents Act\*.

(2) The income of the Authority shall be exempted from payment of tax under the [Income Tax Act](#).

(3) The Authority and any of its broadcasting contractors or licensees shall be exempted from obtaining a licence to broadcast under the [Electronic Communications \(Regulation\) Act](#) or a licence to transmit under the Telemalta Corporation Act†.

**40.** (1) The Authority shall appoint and license a network operator (hereinafter referred to as "the network operator") to run the general interest objective network licensed by the Malta Communications Authority in terms of the Electronic Communications (Regulation) Act.

(2) The Authority shall decide, following a call for applications, which licensees of general content objective services approved by it shall be carried by the network operator. The first call for applications to be issued by the Authority shall be open to those broadcasting services existing on the 1st December 2010 as free-to-air analogue broadcasters. Following the first call for applications, the Authority may issue a second or subsequent call to assign available channels on the general interest objective network:

Provided that any public service television service which was broadcasting on the 1st December 2010 shall be automatically considered to qualify for the purposes of this provision as a general

\*Repealed by Act XVII of 1993 ([Chapter 364](#)).

†Repealed by Act XXXIII of 1997 ([Chapter 399](#)).

interest broadcasting service without the need of applying as aforesaid.

(3) When making regulations to establish criteria for evaluating an application for a general interest nationwide television broadcasting service, the Prime Minister, after consultation with the Authority, shall consider the following criteria:

- (a) general criteria concerning quality programming across the full range of public tastes and interests;
- (b) programming of an educational and cultural nature;
- (c) news and current affairs programming;
- (d) a comprehensive and accurate information service in the interests of a democratic and pluralistic society.

(4) The Authority shall determine the channel line up on the general interest objective network from amongst the general interest broadcasting content licensees and the network operator shall comply with such determination. The Authority's decision shall be final.

(5) Notwithstanding the provisions of any other law, general interest objective service licensees broadcasting on the general interest objective network shall offer free of charge their broadcasting content to such electronic communications networks as the Authority may from time to time direct or approve.

(6) The Authority may make regulations to give better effect to the provisions of this article and may, without prejudice to the generality of the foregoing, make regulations in respect of the determination of disputes between the network operator and the general interest objective service, the regulation of the general interest objective network in order to ensure that the network operator abides by the provisions of this article and any regulations made thereunder and, generally to ensure that an uninterrupted service is provided by the network operator:

Provided that in the case of a dispute between the network operator and a general interest objective service licensee, such disputes shall be referred to a standing arbitral tribunal to be composed of one person appointed by the Broadcasting Authority who shall preside, one person appointed by the Malta Communications Authority and one person appointed in agreement between the Broadcasting Authority and the Malta Communications Authority. The said tribunal shall decide the complaint as expeditiously as possible and its decision shall be final.

(7) The Authority shall approve the conditions and fees imposed on the contract entered into between the network operator and the general interest objective service.

Special  
administrative  
procedure.  
Added by:  
*XV. 2000.14.*  
Amended by:  
*L.N. 424 of 2007.*

**41.** (1) Notwithstanding any other provision of this Act, the offences listed in the First Column of the Fifth Schedule to this Act shall be administrative offences punishable by the Authority.

(2) The imposition by the Authority of an administrative sanction in terms of this article shall be without prejudice to any other consequences of the act or omission of the offender under civil or administrative law.

(3) The Authority shall observe the guarantees of fair and public hearing in its determination as to whether a person is guilty of an administrative offence in terms of this article.

(4) When the Authority is satisfied that a person has committed an offence against any provision of this Act listed in the First Column of the Fifth Schedule to this Act, the Authority may -

- (a) issue a warning in writing to such person; or
- (b) direct such person not to broadcast for a specified period of time and, if the Authority so directs, it shall order such person to transmit free of charge during the time within which it is not broadcasting a notice to the effect that the station in question has been put off air for such period of time by order of the Authority in terms of this paragraph; or
- (c) impose an administrative penalty on such person in accordance with the penalties established in the Second Column of the Fifth Schedule to this Act and subject to the provisions of paragraph 1 of the said Schedule:

Provided that the Authority may not require the payment of a penalty higher than eleven thousand and six hundred and forty-six euro (11,646) or such other amount which the Prime Minister may by order prescribe which amount shall not exceed the sum of thirty-four thousand and nine hundred and forty euro (34,940) and the Authority shall not impose on such person who is found guilty of more than one offence in the same charge the payment of a penalty higher than eleven thousand and six hundred and forty-six euro (11,646) or such other amount which may be prescribed by the Prime Minister as aforesaid:

Provided further that the Authority may also impose a suspended penalty which penalty shall be paid within such period as the Authority may establish. The Authority may also determine such conditions, limitations and restrictions both with regard to the penalty and the suspended penalty as it may deem fit; or

- (d) apply separately or concurrently the measures mentioned in paragraphs (b) and (c) against such person.

(5) Where a notice of a charge under this article has been given, the person named in the notice may, within such period as

the Authority may approve from the date of the service of the notice, accept responsibility for the offence specified in the notice and, within the same period or such further period as the Authority may allow, remedy the offence and pay, or undertake in writing to pay, the penalty indicated in the notice or such penalty as the Authority may accept in accordance with the provisions of the Fifth Schedule to this Act, and in any such case -

- (a) the person named in the notice shall be deemed to have committed the offence and to have admitted his guilt in respect thereof, and the penalty paid, or agreed to be paid, shall be the penalty mentioned in the Third Column of the Fifth Schedule to this Act;
- (b) if the offence is remedied and the penalty is paid within the period, or further period, aforesaid, no further proceedings may be taken against the said person in respect of the same facts;
- (c) if the penalty is not paid within the period given in the notice, or further period as the Authority may establish, the Authority may, without prejudice to its right to collect the penalty, also apply the provisions of sub-article (4)(b).

(6) The Authority's decision shall be final; provided that compliance with the Authority's decision shall not be interpreted as a renunciation to the right to seek judicial review.

(7) A synopsis of the Authority's decision in terms of this article shall be broadcast in the main news bulletin of the offending broadcasting station or during such time as the Authority may direct.

(8) Any administrative penalty imposed by the Authority or agreed to by the accused in terms of this article shall be due to the Authority as a civil debt, constituting an executive title for the purposes of Title VII of Part I of Book Second of the [Code of Organization and Civil Procedure](#) as if payment of the amount of the fine had been ordered by a judgement of a court of civil jurisdiction.

Cap. 12.

(9) The de-penalisation of the offences listed in the Fifth Schedule to this Act shall be without prejudice to any criminal offence committed prior to the coming into force of this article and to liability to prosecution and punishment for the same according to the law in force at the time of the offence:

Provided that in any such proceedings the accused may, at any time before the case is put off for judgement, elect to avail himself of the possibility of paying a reduced administrative penalty in lieu of prosecution in accordance with the Fifth Schedule to this Act and, upon proof of payment of the said penalty, such proceedings shall cease and no further proceedings may be taken against the accused in respect of the same facts.

(10) The Authority may in conjunction with the Prime Minister make regulations to give better effect to the provisions of this

article and may also amend or substitute the Fifth Schedule to this Act, whether in part or in whole.

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## FIRST SCHEDULE

## Article 16 (3)

*Amended by:  
XV. 2000.15.  
Substituted by:  
VIII. 2011.14.*

PURPOSES FOR WHICH PROVISION IS TO BE MADE IN LICENCES AND  
CONTRACTS FOR THE PROVISION OF BROADCASTING SERVICES

1. A licence shall include -
  - (a) such conditions as appear to the Authority to be appropriate having regard to any duties which are or may be imposed on the Authority itself, or on the licensee, by or under this Act;
  - (b) conditions enabling the supervision and enforcement of technical standards in connection with the provision of the licensed service (including the use of the allocated frequency);
  - (c) conditions requiring the payment by the licensee (whether on the grant of the licence or at such times thereafter as may be determined by or under the licence, or both) of a fee or fees of an amount or amounts so determined;
  - (d) conditions requiring the licensee to furnish the Authority, in such manner and at such times as it may reasonably require, with such information (including documents, returns, accounts and declarations) as it may require for the purpose of exercising the functions assigned to it by or under this Act;
  - (e) conditions requiring the licensee, if found by the Authority to be in breach of any condition of his licence, to reimburse to the Authority, in such circumstances as are specified in any conditions, any costs reasonably incurred by it in connection with the breach of that condition;
  - (f) conditions providing for such incidental and supplemental matters as appear to the Authority to be appropriate; and
  - (g) conditions requiring licensees, other than those providing community radio services, within each financial year, to present to the Authority copies of their audited accounts for the previous financial year, a declaration as of the 31st December of each year as to the licensees' affairs/corporate structures as well as reports on the state of public opinion concerning their programme services.
2. A licence shall also include -
  - (a) conditions requiring the licensee -
    - (i) to comply with any direction given by the Authority as to such matters as are specified in the licence or are of a description so specified;
    - (ii) (except to the extent that the Authority consent to his doing or not doing them) not to do or to do such things as are specified in the licence or are of a description so specified;
    - (iii) to comply with the programme service ("promise of performance") as approved by the Authority;
  - (b) conditions requiring the licensee to permit -
    - (i) any employee of, or person authorised by, the Authority, or

- 
- (ii) any officer of, or person authorised by, the Malta Communications Authority,  
to enter any premises which are used in connection with the broadcasting of the licensed service and to inspect, examine, operate or test any equipment on the premises which is used in that connection; and
- (c) conditions requiring the licensee -
- (i) to retain, for a period of ninety days, a recording of every programme included in the licensed service;
  - (ii) at the request of the Authority or of a court of law, to produce to it any such recording;
  - (iii) to retain, for a period of one year, a transcript of every news programme included in the licensed service;
  - (iv) at the request of the Authority or of a court of law, to produce to it any such news transcript and any other script or transcript of a programme included in the licensed service which he is able to produce to it;
  - (v) to keep full logs for a twelve month period of all transmissions of the licensed service;
  - (vi) at the request of the Authority, or of a court of law, to produce to it such logs;
  - (vii) to adopt procedures to handle complaints from viewers and listeners.
3. (1) A licence for community radio services shall include conditions preventing the licensee from -
- (a) utilising any of the frequencies allocated to Malta in terms of international agreements;
  - (b) interfering with any national broadcasting station received in Malta whether originating from Malta or from abroad;
  - (c) interfering with any of the nationwide radio services;
  - (d) having more power than is reasonably required for the purpose of transmission. The Authority shall, in conjunction with the Malta Communications Authority, establish such amount of reasonable power and, in doing so, shall take into account the variations which occur from place to place due to the topography of the locality involved;
  - (e) including anything in programmes which offends against good taste or decency or is likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling;
  - (f) transmitting news or current affairs programmes except of a community nature; and
  - (g) utilising an allocated frequency for less than twenty hours per week.
- (2) Such a licence for community radio services shall also contain, where applicable:
- (a) conditions enabling the supervision and enforcement of technical standards by the Authority following consultation with the Malta Communications Authority in connection with the provision of the licensed service (including the use of the allocated frequency); and



- (b) conditions approved by the Authority following consultation with the Malta Communications Authority relating to the broadcasting equipment to be used by the licensee.

4. A broadcasting licence may also include such other conditions as the Authority deems necessary including conditions relating to programme quality standards and minimum technical standards to ensure acceptable quality broadcasting.

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SECOND SCHEDULE

*Amended by:  
XV. 2000.16.*

Article 11(1)(c)

NATIONAL BROADCASTING PLAN

*(Deleted by Act VIII. 2011.15.)*

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THIRD SCHEDULE

*Substituted by:  
L.N. 159 of 2000;  
L.N. 245 of 2001.  
Amended by:  
L.N. 134 of 2002;  
L.N. 174 of 2008.  
Substituted by:  
L.N. 321 of 2010.  
Amended by:  
VIII. 2011.19;  
LVI. 2020.19.*

Article 19(2)

CODE FOR ADVERTISEMENTS AND TEleshopping  
FOR RADIO AND TELEVISION BROADCASTS

Radio and television broadcasts shall comply with the following rules:

General standards

1. Advertising and teleshopping shall not, except as authorized under a scheme of political broadcasts approved by the Authority in terms of article 13(4) of this Act, and irrespective of whether they are broadcast in return for payment or for similar consideration or otherwise, be of a political nature.

2. No person who is authorised to broadcast commercial advertising or teleshopping shall confine such advertising and teleshopping to goods or services of a sole commercial or financial group or grant any exclusive right for the commercial advertising of a specific product or service.

3. In the acceptance of advertisements and teleshopping there shall be no unreasonable discrimination either against or in favour of any particular advertiser.

Forms and presentation

4. Advertising and teleshopping shall be readily recognisable and distinguishable from editorial content. Sponsorship of news and current affairs

programmes on radio shall be prohibited.

5. 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.

6. Isolated television advertising and teleshopping spots shall be admissible in sports events. Isolated television advertising and teleshopping spots, other than in transmissions of sports events, shall remain the exception.

7. Successive advertisements and teleshopping shall be recognisably separate in particular techniques such as those described in article 19 of this Act.

8. Advertisements and teleshopping shall not be arranged or presented in such a way that any separate advertisement appears to be part of a continuous feature.

9. Audible matter in advertisements and teleshopping shall not be excessively noisy or strident.

Insertion of advertisements and teleshopping

10. Advertising and teleshopping shall be inserted between programmes:

Provided the conditions contained in paragraph 11 are fulfilled, advertising and teleshopping may also be inserted during programmes in such a way that the integrity and value of the programme, taking into account natural breaks in, and the duration and nature of the programme, and the rights of the rights holders, are not prejudiced.

11. The transmission of films made for television (excluding series, serials and documentaries), cinematographic works and news programmes may be interrupted by television advertising, teleshopping, or both, once for each scheduled period of at least 30 minutes.

Advertising and teleshopping of particular products

12. Teleshopping for medicinal products and teleshopping for medical treatment, shall be prohibited.

13. Advertising and teleshopping for all other medicines and medical treatment shall be clearly distinguishable as such, honest, truthful and subject to verification, and shall comply with the requirements of protection of the individual from harm.

14. Advertising and teleshopping for alcoholic beverages shall comply with the following criteria:

- (a) it may not be aimed specifically at minors or, in particular, depict minors acquiring or consuming such beverage;
- (b) it shall not link the consumption of alcohol to enhanced physical performance or to driving;
- (c) it shall not create the impression that the consumption of alcohol contributes towards social or sexual success;
- (d) it shall not claim that alcohol has therapeutic qualities or that it is a stimulant, or sedative, or a means of resolving personal conflicts;
- (e) it shall not encourage immoderate consumption of alcohol or present abstinence therefrom or moderation therein in a negative light;
- (f) it shall not place emphasis on high alcoholic content as being a positive quality of the beverages.

Duration

15. The proportion of television advertising spots and teleshopping spots within the period between 6.00 a.m. and 6.00 p.m. shall not exceed 20% of that period. The proportion of television advertising spots and teleshopping spots within the period between 6.00 p.m. and 12.00 a.m. shall not exceed 20% of that period.

16. Paragraph 15 shall not apply to:

- (a) announcements made by the broadcaster in connection with its own programmes and ancillary products directly derived from those programmes or with programmes and audiovisual media services from other entities belonging to the same broadcasting group;
- (b) sponsorship announcements;
- (c) product placements;
- (d) neutral frames between editorial content and television advertising or teleshopping spots, and between individual spots.

17. The amount of time given to advertising on radio services shall not exceed twenty-five per centum within one hour period, provided that part of such advertising time may be aggregated to a continuous period not exceeding two hours in each twelve hour period. For the purposes of this Schedule, a twelve hour period shall be understood to mean between 06.00 and 17.59 hours and between 18.00 and 05.59 hours.

#### Exemptions

18. Paragraphs 10, 11 and 15 shall not apply to radio services.

Teleshopping for both non-Teleshopping Television Stations and for Television Stations exclusively licensed for teleshopping

19. Teleshopping offers of any kind shall contain the direct offer for sale to the public within the teleshopping transmission itself. Where the offer for sale is only contained elsewhere (such as in a teletext service) the material may not be classed as teleshopping.

20. "Direct offer" means the form of advertising for the supply of any product or service offering detailed explanations and promotion of advantages. A teleshopping offer may solicit the purchase, sale or lease of products or services through contact with the commercial distributors or service provider either by telephone or by any electronic means.

21. Teleshopping shall not use the same scenography of other non-advertising programmes and shall not be presented by anchormen/women engaged in television news or current affairs features.

22. The use of encoded messages shall be forbidden during a teleshopping offer.

23. The price of the product or service offered shall be provided during a teleshopping offer and the address from where business is conducted shall not be broadcast either orally or graphically:

Provided that in the case of a distance contract concluded following a direct offer made through a teleshopping window, it shall be the duty of the broadcaster to provide the address of the trader only in cases of contracts requiring payment in advance.

24. The station which broadcasts a teleshopping window shall keep a record of the identity and the address of the trader who sells a product or a service during a teleshopping window, should a viewer who has purchased a product or service request such information.

25. During a teleshopping offer it shall be permissible:

- (a) to inform the viewer that the advertised product or service will be sent to the address of the person who responds to the teleshopping offer;
- (b) to describe the advertised product or service which will be provided and to announce its functions and its price.

26. All forms of teleshopping and competitions shall not be permitted during a teleshopping offer.

27. A direct offer is always bound with the possibility of direct response, identified by a telephone number. In the case of a television broadcast, one or more telephone numbers which the buyer may call to purchase a particular product or service may be displayed on screen. The numbers may be of a call centre, a warehouse, the studio, the station itself or another place from where the consumer's needs may be met.

28. The expression "optical means" in paragraphs 5, 31 and 37 of this Schedule includes titles, written words, graphic and coloured images, logos, and abbreviations of the expression "teleshopping" and also includes a telephone number. The expression "acoustic means" in paragraphs 5, 31 and 37 includes spoken words, jingles or music parts.

29. Any regulations made under the provisions of article 7 of the Consumers Affairs Act, regulating distance selling, where applicable, shall also apply to teleshopping.

30. Teleshopping applies only to television services and not to radio services.

Teleshopping for Non-Teleshopping Television Stations

31. Windows devoted to teleshopping broadcast by a channel not exclusively devoted to teleshopping shall be clearly identified as such by optical and acoustic means and shall be of a minimum uninterrupted duration of 15 minutes.

32. As teleshopping is a form of distance selling, editorial material shall be kept separate from editorial or non-commercial elements.

33. No advertisements may be broadcast within teleshopping windows.

34. Without prejudice to the provisions of paragraph 29, respondents to teleshopping offers shall have the right to return the product within 15 days from the date of sale to the sales agent. During a teleshopping offer the presenter shall, at the beginning of the teleshopping, inform viewers of such right.

35. (1) Teleshopping spots may not be broadcast before or after children's programmes.

(2) The transmission of children's programmes may be interrupted by television advertising once for each scheduled period of at least 30 minutes, provided that the scheduled duration of the programme is greater than 30 minutes. The transmission of teleshopping shall be prohibited during children's programmes. No television advertising or teleshopping shall be inserted during religious services.

Teleshopping for Television Stations exclusively licensed for Teleshopping

36. Stations that are exclusively devoted to teleshopping shall not transmit any other type of programme apart from teleshopping offers.

37. Teleshopping shall be identified by both optical and acoustic means. A specific announcement shall precede and end the teleshopping offers. As for the quality of the signals given, they shall be suited for drawing the audience's attention

to the fact that a teleshopping offer is being broadcast.

38. The provisions of this Act, other than regulations made under article 37(2) of this Act, shall apply *mutatis mutandis* to channels exclusively devoted to advertising and teleshopping and television channel exclusively devoted to self-promotion.

39. The provisions of paragraphs, 10, 11, 15 and 16 of this Schedule and regulation 5 of the Broadcasting (Jurisdiction and European Co-operation Regulations (S.L. 350.04) shall not apply to the channels mentioned in paragraph 38 of this Schedule.

40. This Schedule is without prejudice to any law in force in Malta.

#### FOURTH SCHEDULE

##### Article 35

*Amended by:  
L.N. 424 of 2007.*

#### **A. APPLICATION FORM FOR A VHF/FM NATIONWIDE SOUND BROADCASTING RADIO SERVICE**

- (a) Applicants are requested to note that they will be required to use the VHF/FM Master Antenna System which is to be installed at the existing television antennae site at G]arg]ur.
- (b) Applications should be typed. Twelve copies of this completed form are required. Only add separate sheets where it is indicated you may do so; otherwise responses must be kept within the space allocated. Appendices giving additional information, or any other material (e.g. cassettes, publicity documents), should not be enclosed unless specifically requested. Failure to comply with these requirements will render the application liable to disqualification. Following the presentation of this application form to the Broadcasting Authority any contact between the applicant and the Authority should only be at the instigation of the Authority.
- (c) This form, when completed, should be addressed to the Chairman of the Broadcasting Authority.

#### **1a. PROPOSED STATION NAME**

(or name by which the applicant is usually known).

- (a) Applicants are requested to note that they will be required to use the VHF/FM Master Antenna System which is to be installed at the existing television antennae site at G]arg]ur.
- (b) Applications should be typed. Twelve copies of this completed form are required. Only add separate sheets where it is indicated you may do so; otherwise responses must be kept within the space allocated. Appendices giving additional information, or any other material (e.g. cassettes, publicity documents), should not be enclosed unless specifically requested. Failure to comply with these requirements will render the application liable to disqualification. Following the presentation of this application form to the Broadcasting Authority any contact between the applicant and the Authority should only be at the instigation of the Authority.
- (c) This form, when completed, should be addressed to the Chairman of the Broadcasting Authority.

**1b. NAME, ADDRESS AND TELEPHONE NUMBER(S) OF MAIN ORGANISER(S) OF THIS APPLICATION**

(for contact purposes: maximum two persons).

Name (1) (2)

Address

Telephone

(daytime)

**1c. LEGAL STATUS OF APPLICANT**

(see Article 10, sub-articles (4) to (6) of Part III of the Broadcasting Act, 1991).

**2. CONTENT AND STYLE OF PROGRAMMING** (maximum 60 words)

(This is your 'Promise of Performance' - see Article 5a of this form).

**3. MEMBERS OF APPLICANT GROUP** - overleaf give name, age, address, nationality (if not Maltese) and other activities (e.g. other directorships) of each. Briefly describe personal background and previous experience, especially that which is relevant to running this radio service.



**3a. MANAGING DIRECTOR**

Name:

Age:

Address:

Nationality:

Background/Experience:

**3b. DIRECTORS / MANAGEMENT COMMITTEE**

For each individual, provide the following information (use additional sheets if necessary) :

Name:

Age:

Address:

Nationality:

Background/Experience:

**3c. DESCRIBE HOW, AND WHEN, THE APPLICANT GROUP WAS FORMED, AND HOW IT HAS DEVELOPED.**

Mention any other organisations lending support to this application.

**4. STAFFING**

- 4 a. Draw up a reporting structure showing station management and organisation, including all intended staff posts, with salaries. (Use one additional sheet if necessary).

- 4 b. **EXECUTIVES / SENIOR STAFF** (including those mentioned at Article 3) - give name, age, address and nationality (if not Maltese) of any individuals so far appointed or identified for station management or other senior staff posts. Briefly describe personal background and relevant previous experience, and state which post the individual would occupy. (Use additional sheets if necessary).

4c. Give total number of (i) full-time and (ii) part-time staff actually employed or to be employed in paid posts.

(i) Full-time

(ii) Part-time

Actually employed

To be employed

4d. If appropriate, indicate how voluntary (i.e. unpaid) staff would contribute to the running of the station, and how many volunteers might be involved during a typical week.

## 5. PROGRAMMING

5a. Make your promise of programming performance, stating, in not more than sixty words, the precise nature of the programme service you intend to provide. If possible, quantify in approximate terms the proportions of airtime to be devoted to the main elements of output. (Please use same wording as in Article 2).

5b. Briefly describe how your proposed programming will differ from, and add to, the choice of radio output already available.

5c. During which hours of the day do you intend to broadcast? (If different from day to day, please list each day of the week separately).

5d. Do you intend to broadcast any programmes obtained from a source other than your own radio station? YES \_\_\_ NO \_\_\_

IF YES, STATE:

When? (State times of day)

For how many hours per week in total?

From what source(s)? (State number of hours per source)

(*Note:* If the sharing of a frequency between a number of different contributing groups is planned, please provide an outline of the sharing arrangements proposed, as part of the response to Article 5f below).

5e. What arrangements will you make to obtain:

National news?

International news?

- 5f. Provide an outline on these pages of a proposed typical week's programming, indicating the times of broadcasting and the length and type of items likely to be included. Indicate also whether any increase in hours is expected, and when.



5 f. (contd.)

5 f. (contd.)

5g. What, if any, are your plans for preparing and broadcasting national information, social action and/or religious programming? Please include details of any proposals for off-air activity, e.g. the provision of training facilities.

5h. If programming in languages other than Maltese is proposed, state which, and give approximate proportions of total output to be broadcast in these languages.

**6. THE AUDIENCE**

- 6a. How large an audience do you expect to attract? Will your station appeal especially to particular groups within the population (if so, say which)? What evidence do you have of public demand for the type of programme service you propose? (If specific audience research has been carried out, use this and a maximum of one additional page to summarise main findings of relevance. Do not include full audience research reports with the application).

6b. By what means would the station plan to keep in touch with the views of its listeners, and their responses and reactions to its services?

6c. Are there any particular organisations or groups within the Maltese islands which you would expect to involve on a regular basis in the station's programming, or on an advisory basis?

**7. FINANCIAL ARRANGEMENTS****7a. Applicants should submit a feasibility study analysis covering three (3) years as a minimum which should include:**

- (i) Projected profit and loss statement - first year per quarter;
- (ii) Projected cash flow statement - first year per quarter;
- (iii) Projected balance sheet for the three years;
- (iv) Projected statement of source and application of funds;
- (v) Details of assumptions on which feasibility study is based;
- (vi) Details of financing arrangements;
- (vii) Details of grants and donations.

**7b. Share capital**

Classes of share capital:

Number	Par value	Issue Price (if different)
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Voting:

Non voting:

Other: *(Please specify)***7c. Loan Stock**

If loan stock is to be issued, state the amount and redemption/conversion terms.

7d. Set out below the details of all voting shareholders (excluding any nominal membership shares), and holders at 5% or more of non-voting shares and loan stock. (A second page may be added if necessary).

Name of Investor	Address	Invest. €	% of total required
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7e. Describe briefly the method by which share/loan capital is to be raised. (Give details of any proposal to have share capital publicly quoted).

**7f. Other loans**

If appropriate, give details of lender, interest rate and repayment terms.

**7g. Bank overdraft facilities**

If facilities have been provisionally negotiated, attach a supporting letter from the relevant bank.

Letter dated

Enclosed/Not enclosed  
(delete as applicable)

7h. Details of capital expenditure.

**8. CASH FLOW FORECAST**

In which year of operation is it expected:

- (i) first to make a trading profit?
  
- (ii) to have eliminated all cumulative losses?

**9. ADVERTISING AND OTHER REVENUE**

9a. What arrangements do you propose for the sale of advertising?

9b. Briefly show how you have estimated your annual revenue from the sale of advertising time (taking into account e.g. population coverage, percentage of airtime sold, tariff levels).

9c. Who within the radio station would be responsible for advertising. (Please confirm that he/she will be made familiar with the Code for Advertisements and Sponsorships as laid down in the Third Schedule of the Broadcasting Act 1991).

9d. If you plan to raise revenue from sources other than the sale of airtime for advertising (e.g. merchandising, commercial production, co-funding, etc.), please list these below:

<b>Type/source of revenue</b>	<b>Expected annual income (Yr 1) €</b>	<b>% of total revenue required</b>
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**10. APPLICANT'S OTHER INTERESTS**

10a. Details are required of the involvement by the applicant group in the activities set out below. For these purposes, the applicant group is defined as its directors (or their equivalent), any company or person with a potential holding of 5% or more of any class of voting share or loan capital, or any subscriber otherwise providing 5% or more of the total funding needs identified in paragraph 7b above. Details should be given under the following broad classifications, showing for each heading the extent of the interest owned, i.e. wholly owned, controlling interest (and size thereof), minority interest (and size thereof). If not applicable, write 'None'.

- (i) Advertising agencies.
  
- (ii) The manufacture of records or the publication of musical works.
  
- (iii) The promotion of the broadcasting of sound recordings or of the broadcasting of performance of music works.
  
- (iv) The obtaining of employment for theatrical performers or for persons to take part as performers in programmes by way of television or radio.
  
- (v) Newspapers, including shareholdings or holdings in a group having substantial control over one or more newspapers.

10b. Provide details of any connection between the applicant group (as defined above) and the following:

(i) Sound broadcasting, television, and allied activities (e.g. wire distribution of sound or television, satellite and cable television).

(ii) Places of entertainment or other entertainment activities.

(iii) Other connections of a nature relevant or related to broadcasting.

(iv) Connections with bodies of a wholly or mainly religious nature.

(v) Connections with bodies of a wholly or mainly political nature.

11. **TRANSMITTERS AND OTHER EQUIPMENT** (Until an offer of licence is made, the Authority does not wish to be told which engineering company or consultancy, if any, has been or will be providing advice or services to the applicant).

11a. Assuming that you will be required to use a VHF/FM Master Antenna System and that this would be installed at the existing TV antennae site, G]arg]ur, give details of the coverage pattern and power and signal level you envisage to provide a good quality signal within the Maltese Islands.

11b. On a separate sheet, list and price all transmitting equipment you either have or intend to purchase, giving performance specifications.

11c. What test equipment do you propose using, and how will you monitor and control important parameters of the signal, including frequency, power, spurious radiation and modulation level?

11d. Please add any technical points regarding transmission, in addition to those given in articles 11a and 11b, including whether you wish to broadcast in stereo.

Mono

Stereo

11e. Are you currently using any VHF/FM frequencies or have you any preference for any particular frequency?

12. **STUDIOS** (Until an offer of licence is made the Authority does not wish to be told which engineering company or consultancy, if any, has been or will be providing advice or services to the applicant).

12a. What is the proposed location (give the actual address, if known) of your studio(s)? What is the property currently used for?

12b. What form of acoustical treatment and isolation do you envisage for your studio(s)?

12c. On a separate sheet, insert a rough scale plan of your studio(s), technical areas and other principal rooms, giving all dimensions.

12d. On a separate sheet, list and price all studio equipment you either have or intend to purchase, giving proforma specifications.

12e. Please add any technical points regarding studios, in addition to those given in articles 12a to 12d.



12f. What arrangements do you propose for linking your studio(s) with the transmitter?

**13. READINESS DATE**

How long after the award of licence would you be ready to start broadcasting?  
What are the main factors that will determine your readiness date?

I certify that, to the best of my knowledge, the details given in this application for a licence to provide sound broadcasting services are correct, and that I have read the Broadcasting Act 1991 and understand the terms under which licences to broadcast are issued. I understand that, if awarded the licence, tape recordings of all output, apart from commercial tapes, records or discs (with timings), will need to be made and retained for ninety days prior to being recycled and that if phone-ins are part of the station's programming a delay mechanism will need to be installed and instructions given for its use where necessary.

Signature:

Name (in block capitals):

Position within applicant group:

**B. APPLICATION EVALUATION FORM  
FOR A VHF/FM NATIONWIDE SOUND  
BROADCASTING RADIO SERVICE**

**(For Broadcasting Authority use)**

PROPOSED STATION NAME:	MARKING  Very Good      Good      Ave.      Poor      Very 5          4          3          2          Poor      1
------------------------	--

QUESTION	ASSESSMENT: KEY POINTS ONLY	MARK (1-5)
SECTION A: GROUP AND STAFFING		
3a	Managing Director assess suitability and expertise  (Mark 2 if no Managing Director or equivalent named)	
3b	Directors (excluding MD): assess expertise and local involvement	
3c	History of group: assess depth of commitment	
4a, c-d	Staffing: assess practicality in relation to programming and financial plans.	

QUESTION	ASSESSMENT: KEY POINTS ONLY	MARK (1-5)
SECTION A:           GROUP AND STAFFING (contd.)		
4b	Executives (including MD): assess expertise and background of individuals mentioned  (Mark 2 if no executives are named)	
SECTION B:       PROGRAMMING		
5a	Programming approach: assess coherence, as outlined in promise of performance	
5b	Diversity: assess degree to which proposals would genuinely increase choice available to listeners	
5c-d	Independence and co-operation: assess practicality of plans to 'go it alone' or to draw upon outside resources	

QUESTION	ASSESSMENT: KEY POINTS ONLY	MARK (1-5)
<b>SECTION B: PROGRAMMING (contd.)</b>		
5e-h	Programming plans: assess realism in fulfilling performance brief	
6a	Audience demand: assess validity of evidence for audience targeting proposed	
6b-c	Audience involvement: assess degree to which applicant is in touch with audience	
<b>SECTION C: FINANCE</b>		
7a (i) to (vii)	Financial Arrangements: assess feasibility study analysis	
7b	Share Capital	

QUESTION	ASSESSMENT: KEY POINTS ONLY	MARK (1-5)
SECTION C: FINANCE (contd.)		
7c	<p>Loan Stock</p> <p>(Mark 2 if none)</p>	
7d	<p>Details of voting</p>	
7e	<p>Method by which share/loan capital is to be raised</p>	
7f	<p>Other loans</p> <p>(Mark 3 if none)</p>	
7g	<p>Bank overdraft facilities</p>	

QUESTION	ASSESSMENT: KEY POINTS ONLY	MARK (1-5)
SECTION C: FINANCE (contd.)		
7h	Details of capital expenditure	
8	Cash flow: assess forecast	
9a-d	Revenue: EITHER assess advertising revenue projections OR assess credibility of alternative proposals for generating income	
10	Applicant's other interests: do these present any potential difficulties (and if so, say what these are)?  (Mark 4 for no difficulties, 2 for minor difficulties, 1 for major difficulties)	

QUESTION	ASSESSMENT: KEY POINTS ONLY	MARK (1-5)
SECTION D: ENGINEERING		
11a	Coverage pattern, power and signal level, quality of signal: assess conclusions	
11b	Transmitting equipment: assess suitability for task	
11c	Testing equipment: assess suitability	
(NB Incorporate any points in 11d within assessments of 11a-c)		
12a	Studio location: assess practicality	
12b	Acoustical standards: assess provision	



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QUESTION	ASSESSMENT: KEY POINTS ONLY	MARK (1-5)
<b>SECTION D: ENGINEERING (contd.)</b>		
12c	Studio plans: assess	
12d	Studio equipment: assess	
(NB Incorporate any points in 12e within assessments of 12a-d)		
13	Readiness date: enter date proposed  (Mark 4 if feasible, 2 if unlikely, 1 if impossible)	

**C. TECHNICAL CONDITIONS RELATING TO THE ESTABLISHMENT AND OPERATION OF A VHF / FM STATION FOR A NATIONWIDE SOUND BROADCASTING RADIO SERVICE IN THE FREQUENCY BAND 87.5 TO 108.0 MHZ**

CONTENTS

- 1 **Purpose.**
- 2 **General.**
- 3 **Definitions.**
- 4 **Abbreviations.**
- 5 **Transmitter Construction.**
- 6 **Transmission Characteristics.**
- 7 **Artificial Antenna.**
- 8 **Safety and Weather Protection.**
- 9 **Station Certification.**
- 10 **Station access and Personnel.**
- 11 **Connection to Public Telecommunications Circuits.**
- 12 **Environmental Conditions.**
- 13 **Power Supply.**
- 14 **Documentation.**
- 15 **Transmitter Load Protection.**
- 16 **Site in the National Plan for VHF/FM Nationwide Sound Broadcasting Radio Service.**
- 17 **Changes to characteristics of frequency assignments.**

**1. PURPOSE**

This document specifies the technical conditions attached to a licence issued under the Broadcasting Act 1991 for the establishment and operation of a VHF - FM station for a Nationwide Sound Broadcasting Radio Service in the frequency band 87.5 to 108 MHz.

**2. GENERAL**

- 2a. These technical conditions detail those characteristics of the equipment that need to be considered for the purposes of frequency spectrum management and safety and do not include detailed equipment specifications.
- 2b. Type approval of equipment is not envisaged. Instead a procedure of station certification, by a qualified person (see article 9) will apply.
- 2c. Revision of the technical requirements specified in this document may be required from time to time.
- 2d. Even though a system may satisfy the requirements specified in this document at the time of authorisation, international agreements may necessitate additional requirements/restrictions for any station.

**3. DEFINITIONS****3a. *Current Radio Regulations***

The current Radio Regulations are "The Radio Regulations edition of 1990"

**3b. *Geneva 84 Plan***

The Geneva 1984 Plan is the "Final Acts of the Regional Administrative Conference for the planning of VHF Sound Broadcasting, Geneva 1984".

**3c. *Assignment* (of a radio frequency or radio frequency channel)**

A radio frequency or radio frequency channel for which authorisation has been received for its use at a specified station with specified characteristics.

**3d. *Effective Radiated Power (e.r.p.)***

The Effective Radiated Power, in a given direction, is the product of a power supplied to the antenna and its gain relative to a half-wave dipole.

**3e. *Authority***

Authority means the Broadcasting Authority.

**4. ABBREVIATIONS**

IEC - *International Electrotechnical Commission*

EBU - *European Broadcasting Union*

RDS - *Radio Data Systems*

CCIR - *International Radio Consultative Committee*

## 5. TRANSMITTER CONSTRUCTION

### 5a. *General*

The mechanical and electrical construction shall meet such requirements as can be reasonably set, taking the state of the art into account. (See also Article 8 "Safety and Weather Protection").

All controls, meters, indicators and terminals shall be clearly labelled. Details of the power supply from which the equipment is intended to operate shall be clearly indicated. The equipment should normally consist of one complete unit.

### 5b. *Controls*

There shall be a control to switch "on" and "off" the power to the entire installation. The "on" position shall be clearly indicated.

Controls which, when wrongly adjusted, increase the risk of causing interference or of improper functioning of the transmitter shall not be immediately accessible to the user.

### 5c. *Manufacturer's Identification*

The transmitter shall be provided with an indication showing the manufacturer's trade mark, type designation and serial number. The indication shall be fitted on the outside of the transmitter, shall be clearly readable, unremovable and indelible.

## 6. TRANSMISSION CHARACTERISTICS

### 6a. *Frequency Aspects*

The equipment shall be designed to operate on the assigned frequency in the frequency band 87.5 to 108 MHz only.

In accordance with Appendix 7 of the current Radio Regulations the frequency tolerance shall be within  $\pm 2$  KHz of the nominal value specified in the licence.

The transmit-frequency shall be derived from a crystal-oscillator. If use is made of a synthesizer and/or a phase locked loop system, the transmitter shall be inhibited when synchronisation is absent. The transmitter frequency adjustment control shall not be easily accessible to the user.

### 6b. *Spurious and Harmonic Emissions*

With the transmitter operating at any power up to its specified power level into its designed load impedance, the level of any spurious or harmonic emissions in the frequency range 100KHz to 2GHz, excluding the range  $\pm 300$  KHz relative to the unmodulated carrier frequency, shall not exceed a value of 70dB below the unmodulated carrier power. However in the band 108 - 118 MHz the level of any spurious emissions shall be limited to not more than 77dB below the unmodulated carrier.

### 6c. *Class of Emission, Bandwidth, and Modulation Standards*

#### (i) *Modulation Standards.*

In accordance with the Geneva 84 Plan (Chapter 3), the transmission system used shall be either System 1: monophonic (with maximum frequency deviation  $\pm 75$  KHz) or System 4: Stereophonic pilot tone system (maximum frequency deviation  $\pm 75$  KHz).

- (ii) *System 1: Monophonic Transmission.*  
The radio-frequency signal consists of a carrier frequency modulated by the sound signal after preemphasis with a maximum frequency deviation of +/- 75KHz.
- (iii) *System 4: Stereophonic Transmission.*  
The radio-frequency signal consists of a carrier frequency modulated by baseband signal according to the specifications of the pilot-tone system. The maximum frequency deviation is +/-75KHz.
- (iv) *Pre-emphasis and low pass filter.*  
The transmitter must be provided with a pre-emphasis filter with a time-constant of 50 microseconds, combined with a low-pass filter with an attenuation of at least 30dB at an input modulation frequency of 20 KHz, relative to the level at 1 KHz.
- (v) *Permitted subcarriers for the transmission of supplementary information.*  
The addition of a sub-carrier on 57 KHz for the transmission of supplementary information using the Radio Data System (RDS) specified in EBU Document Tech. 3244 is considered as being included in the above designation of Emission and permitted Bandwidth. However prior approval must be obtained from the Authority for the use of this system.

6d. *LF input and RF output impedance*

The nominal LF input impedance shall be 600 Ohms balanced to earth within the modulation frequency range 40Hz - 15KHz. The RF output characteristic impedance of the equipment shall be 50 Ohms.

6e. *Transmitter Power*

The transmitter RF output power shall not exceed the value specified in the licence by more than 1dB (26%). The transmitter must incorporate a suitable meter indicating the RF output power to enable routine checks to be made.

7. **ARTIFICIAL ANTENNA**

An artificial antenna must be provided for off-air testing and equipment alignment at each station. This should consist of non-reactive non-radiating load of 50 Ohms impedance which can be connected to the output of the transmitter.

8. **SAFETY AND WEATHER PROTECTION**

8a. *Safety*

- (i) A broadcasting Transmission Installation shall be so designed, constructed and installed as to prevent danger arising, either in normal use or under fault conditions, to personnel working on, or externally inspecting the system, or to any other person. Safety should be considered under the following headings:
- personal protection against electric shock;
  - personal protection against radiation;
  - personal protection against physical injury;
  - protection against fire;

- (ii) The system must comply with IEC Specification 215 (Third Edition 1987) relating to Safety Requirements for Radio Transmitting Equipment.

8b. *Weather Protection*

All apparatus and cables exposed to weather, corrosive atmosphere or other adverse conditions shall be so constructed or protected as may be necessary to prevent danger arising from such exposure.

9. **STATION CERTIFICATION**

- 9a. It is the responsibility of the Licensee to ensure that the suitably qualified person has the necessary technical training, knowledge and practical experience so as to enable to certify that the installation and maintenance of the station complies with these technical conditions.
- 9b. Permission for on-air testing prior to the certification in 9c below and commencement of regular service shall be obtained from the Authority.
- 9c. When the installation of equipment is complete the Licensee shall provide evidence of certification, by a suitably qualified person, to the Authority, that the station is ready to commence operation in accordance with these technical conditions.

10. **STATION ACCESS AND PERSONNEL**

- 10a. Only authorised personnel shall have access to the Transmission Equipment for the purposes of adjustment/ maintenance of that equipment.
- 10b. It is the responsibility of the licensee to ensure that all authorised personnel are adequately trained for the functions they are authorised to undertake.

11. **CONNECTION TO THE PUBLIC TELECOMMUNICATIONS NETWORK**

Where studio and transmitting equipment is connected together by circuits provided on the Public Telecommunications Network prior approval by Maltacom plc shall be obtained.

12. **ENVIRONMENTAL CONDITIONS**

Whilst due allowance must be made for likely ambient temperature and humidity variations for the particular location of the transmitter, compliance with the requirements must be achieved over the following minimum ranges:

Ambient Temperature: 5 deg. Cel. to 45 deg. Cel.

Relative Humidity: 0 % to 95 %

13. **POWER SUPPLY**

- 13a. Whilst due allowance must be made for the stability of the actual power supply, compliance with the requirements of this Specification must be achieved for supply voltage variations in the range +6 % to -10 % of the nominal value.
- 13b. Precautions shall be taken to prevent switching or commutation spikes from being radiated or superimposed upon the incoming supply.

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**14. DOCUMENTATION**

Accurate operating instructions for the correct use of the transmitter must be kept with it at all times. Similarly, up-to-date circuit diagrams and parts lists must be available to enable proper maintenance. Any modifications to the transmitter must be carried out by qualified personnel, and the details reported to the Authority.

**15. TRANSMITTER LOAD PROTECTION**

The transmitter should be designed such that it will not suffer damage when operated continuously with the RF output connector either open or short-circuited.

**16. SITE IN THE NATIONAL PLAN FOR VHF/FM NATIONWIDE SOUND BROADCASTING RADIO SERVICE**

Transmitters of the VHF/FM Nationwide Sound Broadcasting Radio Service shall be co-sited with the existing television service at G]arg]ur and shall use a master antenna system.

**17. CHANGES TO CHARACTERISTICS OF FREQUENCY ASSIGNMENTS**

- 17a. The characteristics of an assignment include frequency, station name, effective radiated power, polarisation and radiation pattern of antenna.
- 17b. In the final acts of the "Regional Administrative Conference for the Planning of VHF-FM Sound Broadcasting, Geneva 1984" there are procedures that have to be adhered to if a change in the characteristics of an assignment is envisaged.
- 17c. Some changes to the characteristics could be difficult and take a long time to process in accordance with the above mentioned procedures. The Authority should be advised as early as possible of any changes sought in the characteristics of the assignments so it can advise of any potential problems foreseen. All international co-ordination is the responsibility of the Authority.

**D. SOUND BROADCASTING LICENCE FEES****1. APPLICATION FEES**

- a. Applications for a nationwide sound broadcasting licence must be accompanied by a non-refundable application fee of €5,823.
- b. Applications for a community sound broadcasting licence (including for one-off events) must be accompanied by a non-refundable application fee of €116.

**2. LICENCE FEES**

- a. The annual licence fee payable to the Authority for a nationwide sound broadcasting licence will be €11,646.
- b. The annual fee payable to the Authority for a community sound broadcasting licence will be €349.
- c. Licences payable to the Authority for community sound broadcasting services for one-off events shall be €116 per event.

**3. PAYMENTS BY THE AUTHORITY**

The Broadcasting Authority shall pay to the Malta Communications Authority such reasonable fees as may be due for those services which the Authority may require for technical assistance in relation to the applications and the normal servicing of the licence conditions.

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FIFTH SCHEDULE  
[Article 41(1)]

*Added by:*  
*XV. 2000.17.*  
*Amended by:*  
*L.N. 164 of 2000;*  
*L.N. 301 of 2005;*  
*L.N. 69 of 2007;*  
*L.N. 254 of 2007.*  
*Substituted by:*  
*L.N. 424 of 2007.*  
*Amended by:*  
*L.N. 225 of 2008;*  
*L.N. 348 of 2009.*  
*Substituted by:*  
*L.N. 322 of 2010;*  
*LVI.2020.20.*

OFFENCES WHICH ARE COGNIZABLE BY THE BROADCASTING AUTHORITY

<b>FIRST COLUMN</b>	<b>SECOND COLUMN</b>	<b>THIRD COLUMN</b>
<b>Provision</b>	<b>Penalty</b>	<b>Reduced Penalty</b>
Article 10(6)(a)	1,160	930
Article 10(7)	460	350
Article 10(8)	230	170
Article 10(10)	1,160	930
Article 13(2)(a)	1,160	930
Article 13(2)(b)	1,160	930
Article 13(2)(c)	1,160	930
Article 13(2)(d)	1,160	930
Article 13(2)(e)	1,160	930
Article 13(2)(f)	1,160	930
Article 13(3)	230	170
Article 15	4,660	4,190
Article 16	2,330	1,750
Article 16(2)	1,160	930
Article 16B (2)	1,160	930
Article 16C (2)	1,160	930
Article 16C (3)	1,160	930
Article 16E	1,160	930
Article 16F	1,160	930
Article 16H(1)	2,230	1,750
Article 16H(7)	2,330	1,750
Article 16J	2,330	1,750
Article 16JA	1,160	930
Article 16JB	1,160	930
Article 16JC	1,160	930
Article 16K	2,330	1,750
Article 16L	2,330	1,750

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Article 16M	2,330	1,750
Article 16N	2,330	1,750
Article 16O	2,330	1,750
Article 16Q	2,330	1,750
Article 16AA	34,950	23,300
Article 16AB	34,950	23,300
Article 18(3)	2,330	1,750
Article 18(4)	2,330	1,750
Article 19(1)	2,330	1,750
Article 19(3)	2,330	1,750
Article 19(4)	2,330	1,750
Article 19(5)	2,330	1,750
Article 19(6)	2,330	1,750
Article 19(7)	2,330	1,750
Article 19(11)(a)	2,330	1,750
Article 19(11)(b)	2,330	1,750
Article 19(11)(c)	2,330	1,750
Article 20(1)(a) & (2)	2,330	1,750
Article 20(1)(b) & (2)	2,330	1,750
Article 20(3)	2,330	1,750
Article 20(4)	2,330	1,750
Article 21(1)(a)	1,750	1,280
Article 21(1)(b)	1,750	1,280
Article 21(2)	1,750	1,280
Article 21(3)(a)	1,750	1,280
Article 21(3)(b)	1,750	1,280
Article 21A(4)	470	350
Article 22(1)	2,330	1,750
Article 22(2)	2,330	1,750
Article 23(1)	1,160	930
Article 23(2)	1,750	1,280
Article 23(3)(a)	1,750	1,280
Article 23(3)(b)	1,750	1,280
Article 23(4)(a)	1,750	1,280
Article 23(4)(b)	1,750	1,280
Article 23(4)(c)	1,750	1,280
Article 23(5)	1,750	1,280
Article 23(6)	1,750	1,280
Article 23(7)	1,750	1,280
Article 34(1)(a)	1,750	1,280
Article 34(1)(b)	1,750	1,280

Article 40(1)	2,330	1,750
First Schedule - for any violation of any of the sub-paragraphs of paragraphs 1, 2 and 3 of the said Schedule	1,160	930
Third Schedule - for any violation of any of the paragraphs of the said Schedule	1,160	930
Fourth Schedule - for not installing or for not using a delay mechanism during phone-in programmes	1,160	930
Advertising, Sponsorship and Teleshopping (Protection of Consumers' Interest) (Television Broadcasting Injunction) Order	34,950	23,300
Regulations 5 and 6 of the European Broadcasting Cooperation Regulations - S.L. 350.04	34,950	23,300
Requirements as to Standards and Practice applicable to News Bulletins and Current Affairs Programmes - S.L. 350.14		
Section 1	1,750	1,280
Section 2	1,750	1,280
Section 3	1,160	930
Section 4	1,750	1,280
Section 5	1,750	1,280
Section 6	470	350
Section 7	1,160	930
Section 8	1,160	930
Section 9	1,750	1,280
Section 10	1,160	930
Section 11	1,160	930
Section 12	1,750	1,280
Section 13	1,160	930
Section 14	1,160	930
Section 15	1,160	930
Section 16	1,750	1,280
Requirements as to Standards and Practice applicable to Participation in Media Programmes of Vulnerable Persons - S.L. 350.15	2,330	1,750
Requirements as to Standards and Practice applicable to the Coverage of Tragedies in Broadcasting - S.L. 350.16	2,330	1,750

Requirements as to Standards and Practice applicable to Disability and its Portrayal in the Broadcasting Media - S.L. 350.17	2,330	1,750
Requirements as to Standards and Practice applicable to the Family Viewing and Listening - S.L. 350.18	1,160	930
Requirements as to Standards and Practice applicable to Phone-in Programmes aired on the Broadcasting Media - S.L. 350.19	1,160	930
Requirements as to Standards and Practice applicable to Crawls and Captions in Television Programmes - S.L. 350.20	1,160	930
Requirements as to Standards and Practice applicable to various types of Polls broadcast on Radio and Television Services - S.L. 350.21	1,160	930
Requirements as to Standards and Practice applicable to the Conduct of Competitions and the Award of Prizes - S.L. 350.22	1,160	930
Requirements and Methods of Advertising applicable to Tattoo Advertising -S.L. 350.23	1,160	930
Requirements and Methods of Advertising applicable to Alcoholic Drink Advertising, Sponsorship and Teleshopping - S.L. 350.24	1,160	930
Requirements and Methods of Advertising applicable to Gambling Advertisements - S.L. 350.25	1,160	930
Requirements as to Standards and Practice applicable to the Promotion of Racial Equality - S.L. 350.26	1,160	930
Requirements as to Standards and Practice applicable to the Price of Telephone Calls and SMSs in the Broadcasting Media - S.L. 350.27	1,160	930
Requirements as to Standards and Practice on Programmes Involving the Participation of Certain Health Care Professionals in the Broadcasting Media and Requirements as to Advertisements, Methods of Advertising and Directions applicable to Medicinal Products and Treatments - S.L. 350.30	1,160	930
Requirements as to Standards and Practice as to Advertisements, Method of Advertising and Directions on Public Collections on the Broadcasting Media - S.L.350.31	1,160	930

1. The Authority may inflict on any person who has violated any of the provisions listed in the First Column of this Schedule the corresponding penalty listed in the Second Column of this Schedule: provided that where the Authority is of the opinion from the circumstances of the case that the gravity of the offence is one which warrants the imposition of a higher penalty, the Authority may award a penalty which is not in excess of the amount established in first proviso to article 41(4)(c) and article 16D(3).

2. Where any person who is served with a notice in terms of article 41 elects to pay the penalty without contestation, he shall be liable to pay the penalty indicated in the Third Column of this Schedule.

3. In the case of a second or subsequent violation of any provision of this

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Schedule, the penalties listed in the Second and Third Columns of this Schedule shall be increased by twenty percent for each and every subsequent violation.

*Transitory and saving provisions.*

1. Nothing shall invalidate any procedure whether written or oral which may have been made before the coming into force of the Fifth Schedule to the Broadcasting Act as substituted by article 20 of the [Broadcasting \(Amendment\) Act, 2020](#) and which was valid according to the law as in force on the date when made.

2. Without prejudice to any charges issued by the Chief Executive in terms of article 41 referring to the Fifth Schedule to the Broadcasting Act, any procedure made by virtue or under the provisions of that article and said Schedule shall remain valid in the same manner as if it were done under the provisions of that article and the Schedule.

3. Any charge issued by the Chief Executive in terms of article 41 referring to the Fifth Schedule of this Act which has not been admitted to by the person against whom the charge has been issued or which has not been disposed of definitively by the Authority shall continue to be regulated by the Fifth Schedule as in force at the time prior to the said date of entry into force of the [Broadcasting \(Amendment\) Act, 2020](#).

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