

HUNGARY

RADIO AND TELEVISION SERVICES ACT 1996

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Act No. 1 of 1996 on

RADIO AND TELEVISION SERVICES

Parliament, in order to promote the freedom and independence of radio and television broadcasting, and of expressing opinion, to ensure the equilibrium and objectivity of information provided and the freedom of acquiring information, and also to support the assertion of the diversity of opinion and culture, as well as to prevent the emergence of information monopolies, further, to enforce Section 61 (4) of the Constitution, has adopted this present Act:

CHAPTER I

GENERAL PROVISIONS

Section 1

Scope of the Act

- (1) This present Act shall apply to the radio and television transmission and associated broadcasting of programs.
- (2) If it is so provided in a separate international convention, this Act shall also apply to broadcasters outside Hungary.

Section 2

Definitions

For the purposes of this Act,

1. Transmission time shall mean the total of broadcasting time and the time used for broadcasting information other than programme items. Information not qualifying as programme items include the standard frequency signal, monoscope, programme signal, interval signal, time announcement, any communication by the announcer not related to programme items and also the interruption of programmes due to technical malfunction.
2. Basic service shall mean the broadcast services provided to subscribers paying the lowest subscription fees within the programme transmission system.
3. Qualifying holding of shares shall mean:
 - direct and indirect holding of interests in an enterprise the total of which ensures control in excess of 25 percent of ownership or voting rights, irrespective of the citizenship or registered office of the owner;
 - a situation that, based on power provided by the founding document (Articles) or by share holding of priority rights, facilitates significant control over the enterprise in terms of the appointment (removal) of the decision maker or members of the supervisory bodies or by other means.
4. Hidden advertising shall mean a programme item or programme announcement which, in the disguise of neutral information, encourages the purchasing of a product or using of a service or acting in accordance with any other commercial conduct.
5. Value added service shall mean the distribution of programs and information not related to the broadcasting of programmes.
6. Feature production shall mean the production of any feature film, television film, television play, television serial or series, documentary, popular scientific feature or animated film.
7. Prime broadcast time shall mean the period between 6.30 am and 9.30 am on the radio and 18.30 and 21.30 on television.
8. Networking shall mean the connection of two or more broadcasters to broadcast the same programme simultaneously or near-simultaneously.
9. Network broadcaster shall mean the broadcaster whose programme or programme item is distributed through a network transmission, and who is responsible for the broadcasting.
10. Local broadcast shall mean broadcasting, the signal area of which covers a maximum of one hundred thousand residents or within a city of maximum five hundred thousand residents as an annual average population.

11. Charity announcement shall mean a programme item or part thereof released in a programme without financial or any other consideration which solicits assistance for a natural person, a group of natural persons or a group of non-governmental organisation, foundations, etc. established for the purpose of assisting such persons or groups.

12. On-screen signal shall mean any text, stationary picture or computer graphics broadcast before or after the television broadcasting time or in between programme items but not as part of the programme.

13. Supplementary broadcasting shall mean additional information closely related to broadcasting transmitted concurrently with radio or television broadcast signals on the same distribution or transmission channel, by means of an ancillary technical device.

14. Conventional advertising shall mean any advertisement that does not qualify as a direct offer advertisement.

15. Regional broadcasting shall mean broadcasting within a signal area wider than the local broadcasting area, but covering less than half of the country's population.

16. Public announcement shall mean

- a programme item serving the purpose of catching the attention of the public in the interest of some cause, published at the request of, and contents specified by, a natural person or an organisation performing central or local governmental tasks.
- a programme item published for purposes other than the promotion of political interests which solicits support for some cause in the interest of the public, promotes such events or cause, or warns the public of factors endangering the realisation of such a cause.

17. Public broadcaster shall mean the broadcaster, providing mainly public service programme items in his broadcast, regulated by his own broadcasting code approved by the National Radio and Television Commission

18. Public service programme shall mean a programme of which public service programme items constitute a determining part, and which informs listeners or viewers within the signal area of the broadcaster on issues of public interest.

19. Public service programme item shall mean a programme item serving the information, cultural, civil and lifestyle needs and demands of listeners or viewers within the broadcaster's signal (national, regional, local) area, in particular

- a work of art featuring universal, Hungarian, national and ethnic minority cultural values, or a communication illustrating the life of nations and ethnic minorities living within Hungary as well as information presenting the views of minorities,
- conveying information for educational or training purposes,
- informative broadcast on scientific activities and achievements,
- aimed at the realisation of freedom of religious persuasion and beliefs and also programme items demonstrating Church and religious activities,
- programme items for the child and the young
- dissemination of information helpful in everyday life, providing assistance to citizens in legal and public matters, or promoting issues of healthy lifestyle, environmental protection or road safety.
- programme items produced for the benefit of groups of individuals seriously disadvantaged due to their age, physical or mental conditions or social situation,
- news broadcasting.

20. Public service broadcaster shall mean the broadcaster operating under the regulation of public service broadcasting code, with a primary responsibility of which is the regular broadcasting of public service programme, who is basically maintained on funds of public money, under social supervision and whose basic rights and duties are laid down in this present Act.

21. Indirect ownership shall mean the holding of equity or exercising of voting rights in one enterprise (hereinafter: the primary enterprise) through the equity or votes or a sequence of thereof, one or more enterprises (hereinafter: secondary enterprises). If the rate of the equity held and of voting rights are different, the larger rate of the two shall be considered as the prevailing rate of ownership. For the purpose of calculating the extent of indirect ownership, the prevailing rate of ownership in the secondary enterprise shall be multiplied by the secondary enterprise's prevailing rate of direct ownership in the primary enterprise. If the natural person or legal entity holds a majority of shares in the secondary enterprise, then the direct holding shall be multiplied by one. In the case of a natural person holding equity or voting rights, his rate of ownership shall include all the shares and voting rights held by his close relatives (as laid down in [b] of Section 685. of the Civil Code).

22. Direct offer advertisement shall mean an advertisement soliciting to purchase, sell or lease products or use services by means of directly contacting the commercial distributor or service provider.
23. Cross-border broadcasting shall mean the non-satellite broadcasting the targeted signal area of which, as defined by the technical specification of the broadcasting channels used for its dissemination, is mostly outside the territory of the Republic of Hungary, as well as Hungarian satellite broadcasting with signal areas outside Hungary.
24. Broadcasting in Hungary shall mean the broadcasting
- the broadcaster of which is a natural person resident in Hungary or by a legal entity or economic association without a legal personality with a registered office in Hungary, or
 - the distribution equipment or network designed for transmitting the programme has been installed within the boundaries of the Hungarian Republic.

However, un-altered concurrent broadcasting originating from outside the Hungarian Republic, shall not qualify as broadcasting in Hungary.

25. Programme shall mean the edited and publicly released sequence of radio or television programme items.
26. Dissemination of signals shall mean the concurrent and un-altered transmission of signals generated by the broadcaster to the receiver equipment of eligible users, through cable networks or non-programme broadcasting radio telecommunication systems from the broadcaster's operating plant, or from the broadcaster's program dissemination terminal points, or by means of employing a separate transmitting organisation, but excluding networks with a capability of serving less than 10 connected receivers. A cable network within the boundaries of one single land property (e.g. jointly owned block of flats) shall not qualify as dissemination of signals.
27. Broadcasting time shall mean the total time of programme items released in the programme during a specified period of time.
28. Programme item shall mean any sound or image, or the combination thereof representing a whole unit or edited to form a whole unit from separate components, limited by the main title or credits referring to the whole of the assembly, other distinguishing announcements if and as necessary, and a clear marking of its end.
29. Distribution of signals shall mean the unaltered and simultaneous transmission of signals generated by the broadcaster to the radio and television transmitter stations or disseminating networks through a cable network, surface antennae, or non-programme broadcasting satellite radio telecommunication system.
30. Broadcasting shall mean the regular provision, to anyone operating an appropriate receiving equipment, of radio or television programs with a permanent designation, on the specified and publicly disclosed channel of any programme distributor, at transmission times published in advance.
31. Broadcaster shall mean the enterprise licensed under the provisions of this present Act, editing the sequence of programme items or selecting programme items to be broadcast within the programme.
32. Transmission shall mean a one-way radio telecommunication procedure for the transmitting of sound, images and other signals via surface or satellite systems targeted at a theoretically unlimited number of users in the possession of an appropriate receiver.
33. Programme distribution shall mean the simultaneous and unaltered forwarding of signals generated by the broadcaster through electronic means (by ways of transmission or signal dissemination) to the user's receiving equipment.
34. Non-profit oriented broadcaster shall mean the broadcaster who undertakes to promote the causes of national, ethnic or other minority interests, interests of groups in a disadvantaged position, or intend to serve as a forum of a residential or local community - provided that he recycles any (separately disclosed and accounted) profits generated by his broadcasting activity into the continuation and development of his broadcasting activity.
35. National interest representation organ or professional body shall mean the representative or professional body established under the provisions of Act No. 2 of 1989. the nationwide operation of which can be demonstrated in its foundation documents.
36. National broadcasting shall mean broadcasting over an area that covers at least fifty percent of the country's entire population.
37. Periodicals of national circulation shall mean the daily paper whose daily net circulation reaches a minimum of one thousand copies each in at least ten counties or at least forty thousand copies in Budapest, or the weekly paper whose weekly net circulation reaches a minimum of five hundred copies each in at least ten counties or at least thirty thousand copies in Budapest.
38. Composite programme item shall mean an assembly of several programme items under the same main title.
39. Political advertisement shall mean a programme item which a party or political movement
- asks for, or exerts influence to, support the participation or its candidate's success in an election or to initiate the calling of a referendum,
 - promotes its name, activity, objectives, slogan, logo or its public image.

40. Subliminal advertising shall mean advertising, which, due to the short duration or any other reason, exerts influence upon exposure on the viewer or listener by means of a sound or light stimulus that is considered below the threshold of stimulus necessary for psychologically conscious perception.

41. Advertisement (commercial) shall mean any programme item disclosing information to the public, or broadcasting time made available for such purpose, which for a fee or other consideration, which promotes the sale or use of the specified or illustrated goods (product, service, real estate property, right or obligation) available for a price or consideration, or assists in making any other impact according to the desire of the advertiser.

42. Internally produced programme item shall mean a programme item produced, in majority, by

- a natural person who is engaged by the broadcaster in a legal relationship of employment, or
- a natural person who is resident in Hungary, a legal entity or an economic association without a legal personality with a registered head office in Hungary - at the expense of the broadcaster, hence the legal proprietary rights associated with the new program thus created belong to the broadcaster.

43. Specialised broadcasting shall mean broadcasting in the programme of which at least eighty percent of the daily broadcasting time is featuring programme items of the same kind as specified by the broadcaster in his application or undertaken in his registration.

44. Sponsorship shall mean any contribution of financial or other nature made available to the broadcaster towards the production or publication of a programme item (which does not qualify as an advertisement) with the aim of promoting the name, trademark, logo or other distinguishing mark or image of the sponsor or of a third party specified by the sponsor.

45. Enterprise shall mean, regardless of its profitability, the activity and ownership position, under the provisions of this present Act, of a natural person, legal entity or economic association without a legal personality.

46. Cable transmitter shall mean a signal disseminator who performs his activity by means of a closed network of telecommunication circuits.

47. Signal area shall mean

in the case of broadcasting through a transmission system, the geographically defined area where the level of useful signals emitted by the transmission service forwarding the programme as well as the calculated level of interference protection reach the minimum value specified in the relevant recommendations of the International Telecommunication Union (UIT);

- in the case of broadcasting through a cable transmission system, the inhabited area in which a cable network is installed and where the residents of the area can be connected to the trunk cable for a fee applicable in the locality of the area;
- in the case of broadcasting through a wireless radio signal dissemination system, the geographically defined area where the level of useful signals emitted by the transmission service forwarding the programme as well as the calculated level of interference protection reach the minimum value necessary for acceptable quality reception in the relevant broadcasting agreement,
- in the case of networked programme distribution systems, the totality of the signal areas of the individual distribution systems.

48. Music programme item shall mean a programme item composed of music pieces protected under the copyright provisions.

CHAPTER II

PRINCIPLES AND RULES OF BROADCASTING

PART A) General rules and principles

TITLE ONE

Section 3

Principles

(1) Within the limits of the law, broadcasting can be exercised freely, information and opinions can be distributed freely through broadcasting, Hungarian and foreign programmes intended for public reception can be received freely within the Republic of Hungary. Within the constraints of the law, broadcasters are free to decide on the contents of the broadcast and can be held liable for such broadcast.

(2) The broadcaster must observe and honour the constitutional order of the Republic of Hungary, his activity may not offend human rights and must not be instrumental to the rise of hatred against individuals, sexes, populations, nations, or ethnic, linguistic or other minorities or against churches or groups of a religious persuasion.

(3) Broadcasting must not be intended to offend or prejudice, explicitly or indirectly, any minority or majority or to present or prejudice minorities or majorities based on racial criteria.

Section 4

(1) Information provided about domestic or foreign events, affairs and controversial issues that are of public interest, must be versatile, factual, up to date, objective and balanced.

(2) The totality of the programme items presented to the public in the broadcast or any group of such programme items by content or nature shall not be in the service of any party or political movement or the views thereof.

(3) The broadcaster's commentators, newscasters, reporters regularly appearing in the political informative and news programme items, regardless of the legal relationship of their employment, may not attach their comments or evaluating explanations - except news commentary - within the broadcaster's framework of activity.

(4) The origin of any opinion or evaluating comment expressed in the programme relating to a news item must be disclosed together with its nature and author, clearly distinguished from the news item itself.

Section 5

(1) Prior to the broadcasting of visual or sound effects which are offensive to persuasion of religion or faith, violent or conducive to disturbing effect in any other way as well as to the broadcasting of any programme items the content of which may be harmful to the personality, mental or physical development of minors, the audience must be warned of this fact.

(2) Any programme intended or suitable for education in matters of religion or faith may only be broadcast after the such nature of the programme item is disclosed.

(3) In a programme item intended for minors, no images or sound depicting violence as an example to be followed shall be broadcast.

(4) Program items that are harmful to the personality development of minors, in particular depicting the self-justified application of violence as an image of conduct may only be presented to the public between 23.00 and 5.00 am. Prior to broadcasting of such programme items, the public must be warned of the fact.

Publication of programme items seriously damaging the personality development of minors is prohibited.

TITLE TWO

Section 6

Specific programme structure requirements

At least fifteen percent of the total annual radio broadcasting time used for music programme transmission shall be selected and edited from Hungarian produced music programme items. This provision does not apply to a broadcaster not engaged in broadcasting music programme items.

Section 7

(1) National and regional television stations shall have such programs amounting to at least ten percent, later, from the 1st January, 1999 at least fifteen percent of their annual broadcasting time, or such programmes purchased for the equivalent of at least eight percent, later, from 1st January, 1999 at least twelve percent of their annual expenditure - as defined under Section 15 Paragraph (7) of Act No. 18 of 1991 on Finance and Accountancy, that were commissioned from a producer or were produced by an external enterprise either on the specific commission of the broadcaster, or purchased from the said enterprise as a programme item created not longer than five years.

In this enterprise the purchasing broadcaster may not have direct or indirect holding of ownership, and nor may a manager, executive officer or close relative thereof - as is laid down under Section 685. b) of the Civil Code - hold an interest in the enterprise or be employed by the enterprise. The such acquired programme items must be Hungarian produced items.

(2) Programmes shown under networking shall be taken into consideration for the purposes of the requirements set forth in Paragraph (1) only in respect of the network broadcaster.

(3) Hungarian produced programme items shall comprise at least fifteen percent, later twenty percent from 1st January, 1999 of the annual broadcasting time - net of feature films, advertisements, news, live coverage of sporting events, quiz and game shows - of national and regional television broadcasting.

Section 8

(1) The national and regional broadcaster, with the exception of the specialised broadcaster, must provide public service programme items for at least ten percent of the total broadcasting time.

(2) Public service programme items of at least twenty-five minutes duration must be broadcast in prime time. If the broadcaster does not transmit any programme at prime time, he must broadcast public service programme items of at least twenty-five minutes duration between 7.00 and 18.30.

(3) At prime broadcasting times, the national television must broadcast a separate and uninterrupted news programme of at least twenty minutes duration, the national radio of at least fifteen minutes. News items taken over from other broadcasters may not exceed twenty percent of the total of the news programme.

(4) Surface antenna broadcasting national television station may not operate as a specialised broadcaster.

TITLE THREE

Section 9

Broadcasting of public events

(1) If a broadcaster covers any event - that is otherwise accessible for the public - under an exclusive contract, another broadcaster may publish in his programme or news coverage concurrently with or after the exclusive contract a part of the broadcast (programme item) to an extent not exceeding the free use of copyright items in the radio or television as provided by the copyright law.

(2) Publication of the part of the broadcast coverage of the event is in compliance with the needs of the programme or news if it does not exceed ten percent of the exclusive broadcast (programme item) or fifty seconds' duration.

TITLE FOUR

Section 10

Advertising restrictions and prohibitions

(1) With the exception of intentional deception, broadcasters shall have no responsibility under the provisions of this present Act for the claims made in an advertisement.

(2) No persuasion of conscience or faith shall be broadcast in the form of advertising.

(3) No advertisement shall be placed directly preceding or directly following the broadcast of a programme item about the events of national holidays or religious or church ceremonies.

(4) Neither the voice or the image of persons announcing news or regularly appearing in current political affairs programmes shall be featured in a commercial or political advertising.

(5) Indirect or subliminal advertising shall not be broadcast.

Section 11

(1) During election campaigns the publication of political advertisements in broadcasting shall be governed by the provisions of the relevant Acts on the election of Members of Parliament, members and mayors of local government Corporations, on the election of minority self-governments and social insurance self-governments. Outside election campaigns, political advertisements may be broadcast exclusively in connection with a previously announced referendum.

(2) No political advertisements shall be published in cross-border broadcasting.

Section 12

(1) The party commissioning the publication of the advertisement, public interest announcement, charity plea or political advertising, or any other party having an interest in the publication thereof, shall not influence the content of the programme item or its position within the programme - with the exception of the time-slot - in any way that would prejudice the broadcaster's responsibility or freedom.

(2) The broadcaster shall not be held responsible for the contents of public interest announcements, charity plea or political advertisements under the provisions of this present Act.

Section 13

(1) No advertisement promoting or providing information on tobacco products, weapons, fire-arms explosives, medicines exclusively obtainable on doctors' prescription or medical treatments shall be broadcast.

(2) Advertisement promoting alcoholic drinks shall not

- be targeted at minors and shall not depict a minor consuming alcoholic drinks,
- encourage the consumption of alcohol to excess and shall not depict excessive alcohol consumption in a positive, or abstinence in a negative light,
- imply the idea that consuming drinks of low alcohol content would, in itself, prevent excessive alcohol consumption,
- claim that consuming alcoholic drinks has a beneficial effect on health,
- be broadcast in prime broadcasting time, with the exception drinks of low alcohol content,
- be published directly preceding or directly following the broadcast of programme items intended for minors.

Section 14

(1) Advertisements shall not directly suggest to minors that they should encourage their parents or other adults to purchase toys, other goods or render services.

(2) The advertisement shall not be deceptive concerning the advertised toy's true nature.

(3) Advertisements shall not depict children in a violent situation and shall not promote violent conduct.

(4) An advertisement targeted at minors shall not use the minors' trust in parents or teachers as a means of achieving its aim.

Section 15

(1) Commercial advertisements, public interest announcements, charity pleas and political advertising shall be disclosed

- specifying this nature of the programme item immediately preceding and directly following its broadcast, and also
- clearly separated from other programme items by visual or acoustic means.

(2) The source of broadcasting public interest announcement or charity plea must be unambiguously identified. The broadcaster may not demand a consideration for the publication of a public interest announcement or a charity plea under the provision of Section 2 Paragraph (18) a) of this present Act.

(3) Duration of a public interest announcement may not exceed two minutes. This restriction does not apply to the public interest announcement specified in Section 137. of this present Act.

Section 16

(1) Conventional advertising may not exceed fifteen percent of the daily broadcasting time. Advertising time may reach twenty percent if it also includes direct offer advertising.

(2) Within any one hour's duration of the broadcasting time, conventional advertising may not exceed twelve minutes.

(3) The total duration of direct offer advertising may not exceed one hour per day.

(4) The above restrictions in Paragraph (1) and (3) do not apply to direct offer advertising broadcast between midnight and five o' clock in the morning.

(5) The non-profit oriented broadcaster may not show more than three minutes of advertising per hour.

(6) Paragraphs (1) to (3) shall not apply to broadcasting specialised exclusively to the ordering of goods or services.

(7) Paragraphs (1) to (3) shall not apply to on-screen text broadcasting if its signal area does not exceed the local broadcast signal area.

(8) The national and regional television, with the exception of the broadcaster specialised on showing no feature films, is under obligation to use six percent of his advertising revenue for the creation of new Hungarian films. These, at least one half of it, could be feature films, documentary films, popular scientific films or animated films, and thirty percent shall be non-internally produced creation. This obligation may be met by means of paying in moneys to the account of a public foundation or state funds formed for the support of Hungarian film production unconditionally, with the exception of securing the screening rights. From this aspect, the paid in sums shall be taken into consideration with a multiplier of two.

Section 17

(1) Advertisements may be published between programme items.

(2) Under the conditions specified in paragraphs (3) to (6), advertising may be placed within the programme item in such a manner that it will not offend the value of the programme item or the performing rights and copyright interests associated with the programme item.

(3) Advertising, within programme items composed of several parts, and within live coverage of sport and other events in which there are natural breaks, may be published between the component parts and the breaks.

(4) Advertising may not interrupt or shorten the programme item which

- is a news or topical political programme item not exceeding thirty minutes in duration,
- is directed to minors below the age of 14, and its duration does not exceed thirty minutes,
- is covering the events of national holidays, or
- is of religious nature.

(5) Time interval between the broadcast of advertisements or of a collection of advertisement placed within a programme item shall be not less than twenty minutes.

(6) Feature film productions longer than forty-five minutes may be interrupted by commercials once in every 45-minute period, subject to the permission of the copyright owner. If the total duration of the feature film is at least twenty minutes longer than twice or more times forty-five minutes, the film may be interrupted on one further occasion. At least twenty minutes of broadcasting time must elapse between such integrated commercials.

TITLE FIVE

Section 18

Sponsored programme items

- (1) The sponsor of a sponsored programme item must be identified immediately before or after the broadcasting.
- (2) A sponsored programme item shall not encourage or influence to make use of, or refrain from using, the business services of the sponsor or of any third party specified by him.
- (3) The sponsor shall not influence the content of the programme or the sponsored programme item or its position within the programme - with the exception of the time-slot - in any way that would prejudice the broadcaster's responsibility or freedom.
- (4) No programme item - with the exception of a programme preview - in which the trademark, distinguishing sign, logo or slogan of the sponsor appears, shall be published.
- (5) No political news programme shall be sponsored.
- (6) This Section, with the exception of Paragraph (5) shall not apply to broadcasting specialised exclusively in facilitating the direct ordering of goods or services.

Section 19

- (1) No programme item shall be sponsored by
 - political parties or political movements,
 - the enterprise producing, as its core activity, a product that may not be advertised under the provisions of this present Act, or who engage in the wholesale distribution of, or provide services related to, such products. This prohibition does not apply to the sponsoring tied to the publishing of the name and trademark of the enterprise associated with a medicine product or medical treatment.

The identification (display) of the sponsor's name shall not include the name, slogan or logo of any political party.

TITLE SIX

Section 20

Supplementary broadcasting and value added services

- (1) No licence shall be issued exclusively for supplementary broadcasting activities.
- (2) Supplementary broadcasting shall be provided exclusively by licensed broadcasters.
- (3) Intention to provide supplementary broadcasting shall be indicated in the broadcasting licence application, or communicated in the form of a notice, at a later date.

Section 21

- (1) Broadcasters are entitled to provide value added services.
- (2) If a broadcaster fails to commence the provision of some possible value added service within one hundred and eighty days after the commencement of exercising his broadcasting rights (with the exception of satellite broadcasting), the programme distributor may lay claim thereto.
- (3) The claim defined in Paragraph (2) can be enforced by the submission of a notice to the National Radio and Television Commission (hereinafter: Commission) and to the broadcaster within 180 days after the claim arises. After the expire of this deadline, the one, out of the broadcaster and the programme distributor, to be the first to announce his claim to this effect to the Commission, shall be entitled to provide the value added service. If neither the broadcaster nor the programme distributor wishes to provide the value added services, the broadcaster and the programme distributor may enter into an agreement with a third party telecommunications service provider for this purpose.

(4) Value added services may be started within 60 days following the notice and they shall be provided continuously in accordance with the content of the notice.

(5) The right to provide value added services shall expire together with the expire of broadcasting rights.

PART B)

GENERAL RULES AND PRINCIPLES OF PUBLIC SERVICE BROADCASTING AND PUBLIC BROADCAST

TITLE ONE

Section 22

General rules

(1) Only broadcasters established under the provisions of this present Act may engage in public service broadcasting.

(2) The Commission may, upon application, declare a broadcaster public broadcaster if it undertakes to meet the obligations expected from public broadcasters.

(3) The Commission declares the broadcaster a public broadcaster by the fact of the broadcaster's acceptance of the broadcasting code. The Commission shall promulgate the broadcasting code in Muvelodési Közlöny (Official Publication of the Ministry of Culture and Education).

(4) Public service broadcasters and public broadcasters shall be exempt from the payment of broadcasting fee.

TITLE TWO

Section 23

Rules common to public broadcasters and public service broadcasters

(1) It will be the duty of the public broadcaster and of the public service broadcaster to respect the dignity and other interests of the nation, national, ethnic, linguistic and other minorities, and not to offend the dignity of other nations.

(2) The public broadcaster and public service broadcaster shall regularly provide comprehensive information objectively, in a balanced accurate and factual manner, on domestic and international events deserving public interest, also on any event, interrelations, controversial issues, opinion, including diverse views on events, that may have significant influence over the lives of citizens living within the broadcast's signal area. In the course of performing these tasks, the broadcaster shall ensure the publication of public interest announcements specified in Section 137.

(3) The public broadcaster and the public service broadcaster shall ensure the representation of the diversity of programme items and views, including the presentation of minority views and shall provide for the satisfaction of the interest of a broad circle of, and the largest number of groups of, viewers at a high standard by means of a wide variety of programme items.

(4) The public broadcaster and the public service broadcaster shall pay special attention to

- fostering the values of the universal and national cultural heritage, to the assertion of cultural diversity,
- presenting programme items contributing towards the physical, mental and moral development of minors, to serving their interests and enrichment of their knowledge,

- presenting the values of religious, national, ethnic or other minority cultures,
- making information important for groups of severely disadvantaged individuals due to their age, physical, mental and social conditions accessible for them,
- presenting programme items that reflect the social, economic and cultural life of different regions of the country.

Section 24

(1) The public service broadcaster and the public broadcaster may not broadcast advertisements for the total duration in excess of six minutes within any one hour broadcasting time calculated in any manner. The total advertising time may not exceed four minutes per hour in the average of daily broadcasting time.

(2) The presentation of on-screen signals with advertising content shall constitute a part of the duration of advertising.

(3) Advertising in public service broadcast and public broadcast may be published exclusively in between programme items, or, in the case of composite programme items, in between programme components. In the case of coverage of sports or other events having natural breaks, advertising may be placed in between the parts and during the natural breaks.

(4) No alcoholic drinks or tobacco products shall be advertised in the programme of a public service broadcaster or a public broadcaster. No programme item of a public service broadcaster or a public broadcaster may be sponsored by an enterprise of which the main activity is production or distribution of alcoholic drinks or tobacco products.

(5) Persons regularly appearing in public service broadcast or in public broadcast as internal or external staff, irrespective of their employment status, shall not appear in commercial or political advertising at any broadcaster in sound or image.

(6) Programme items depicting the wanton use of violence as an example to be followed or depicting sexuality deprived of its human features shall not be published.

Section 25

Only the following programme items may be sponsored in public service broadcasting or public broadcasting:

- programme items of religious and church content,
- programme items representing or covering of artistic or cultural events,
- programme items in the mother tongue of national and ethnic minorities, or depicting the life and culture of national and ethnic minorities,
- programme items produced for the benefit of groups of seriously disadvantaged individuals due to their age, physical, mental and social conditions.

TITLE THREE

Section 26

Specific rules governing public service broadcasting

(1) It is the duty of public service broadcaster to assist in fostering the culture and mother tongue of national and ethnic minorities living in Hungary, to provide information to those minorities in their mother tongue. The public service broadcaster shall fulfill this duty by means of broadcasting in national, or, taking the geographical distribution of the residential location of those minorities, regional or local broadcast with programme items responding to the needs of minorities, and on television through the use of subtitles or multilingual transmission, as required. The broadcasting time used for nationality and ethnic programme items, whether in national or regional totals, shall not be less than the respective times used at the time of this present Act coming into effect.

(2) The principles of using the available broadcasting times at the public service broadcaster for minorities programme items shall be determined autonomously by the self-governments of national and ethnic minorities -

lacking of which, by their national organisations. The public service broadcaster must take their defined principles, that may not influence the content and programme editing into consideration.

Section 27

(1) The public service broadcaster shall provide for the permanent safekeeping and maintenance of cultural values and documents of historic importance in his archives, he shall provide for collecting, filing and storing those at an adequate professional standard.

(2) The rules governing archiving and of the means to utilise archives shall be jointly determined by the Board of Trustees and the Commission in a separate regulation.

Section 28

(1) Public service television, starting from the 1st January, 1997 shall

- compose at least fifty-one percent of its annual broadcasting time net of advertising, news, sports coverage, quiz and game shows, of Hungarian produced programme items and, including these, at least seventy percent of European produced programme items;
- compose at least thirty percent of its broadcasting time, calculated at the average in any one calendar month, net of advertising, news, sports coverage, quiz and game shows, of Hungarian produced programme items and, including these, at least fifty-one percent of European produced programme items;
- not less than fifteen percent, and, from 1st January, 1999 twenty percent of the total annual broadcasting time used for screening feature films shall be composed of features produced by Hungarian citizens, or Hungarian nationals, or produced in association of Hungarian artists, or of Hungarian produced feature films, of which not less than twenty percent is new production and thirty percent is not Hungarian Television's or Duna Television's internally produced feature. These rates shall also apply to children's and youth programme items;
- compose at least ten percent, from the 1st January, 1999 not less than fifteen percent of its annual broadcasting time net of advertising and sports coverage, of Hungarian, but not internally produced programme items.

(2) The rates specified in Paragraph (1) shall also apply at prime broadcasting times.

(3) Not less than thirty percent of the annual broadcasting time of the public service radio used for transmitting music programmes shall be composed of works created by authors or produced with the participation of performers who are Hungarians by citizenship or nationality, or of Hungarian produced programme items.

(4) The public service broadcaster shall comply with the obligations laid down in this Title in each and every broadcasting service it provides, respectively.

TITLE FOUR

Section 29

Public service broadcasting code and broadcasting code

(1) It is the duty of the public service broadcaster to prepare its public service broadcasting code; of the public broadcaster to prepare his broadcasting code.

(2) The public service broadcasting code or the broadcasting code shall regulate the following:

- the assurances for independence from political parties and neutrality of political movements,
- the principles of a balanced and objective presentation of the news, current political affairs and controversial issues, also of the different opinions and diversity of views,
- the professional criteria required for fostering the mother tongue culture,
- the order of presenting the life and culture of national and ethnic minorities living within Hungary, with regards to Section 26 Paragraph (2) of this present Act,
- the system of objective presentation of the diversity of cultural, scientific, religious views and beliefs,
- the method of publishing programs to be marked with a distinguishing code,

- the rules in relation to minors,
- the advertising activity and sponsoring programme items,
- the publishing of public interest announcements,
- the assurance and extent of independence and responsibility of programme editors employed by public service broadcasters and public broadcasters, the assurance of their participation in the determination of programme editing principles whilst respecting the assertion of citizens' rights to freedom of information,
- the code of conduct and the rules of conflicting interests regarding the staff, in particular staff employed in political and news programme items,
- the professional rules of programme production activity,
- the general requirements of cross-border broadcasting and also broadcasting specified under Section 134. Paragraph (3) and the principles of the means to meet those requirements, and also of the covering of the planned signal area.

(3) The public service broadcasting code or the broadcasting code shall ensure that the appointment of external staff or commissions made by the public service broadcaster or the public broadcaster do not offer opportunity for unfair advantages for the employees of the public service broadcaster or public broadcaster.

(4) The draft public service broadcasting code shall be submitted for approval to the Board of Trustees of the Public Foundation, within nine months from the date this present Act comes into effect. The Board of Trustees may approve the draft in agreement with the Commission.

Section 30

(1) Whilst the Hungarian Radio and Hungarian Television provide public service broadcast to the overall majority of the country's population, Duna Television does so primarily to Hungarians living outside the borders of the Republic of Hungary.

(2) The service provided to the overall majority of the population shall mean, in the case of wireless radio broadcast, at least one transmission within the 87.5-108.0 MHz frequency band with a signal area receivable by not less than eighty percent of the population, in the case of television signals distributed through surface antennae, at least one transmission with a ninety percent signal area.

CHAPTER III

NATIONAL RADIO AND TELEVISION COMMISSION

TITLE ONE

Section 31

Legal status and organisation of the National Radio and Television Commission

(1) The National Radio and Television Commission protects and promotes the freedom of speech by means of facilitating the broadcasters' entering in the markets, by means of disassembling information monopolies and of preventing the development of new ones, by means of protecting the independence of broadcasters; and also by monitoring adherence to the constitutional principles of free press and by reporting its findings to Parliament.

(2) Members of the Commission are only governed by this present Act, and in the course of performing their duties, they may not be ordered otherwise.

Section 32

(1) The Commission is an independent legal entity reporting directly to Parliament, managing its economic activities in accordance with the rules of law regulating the economic affairs of organs operating under the state budget. The Commission's financial budget shall be approved in a separate Parliamentary Act, charged to the sources specified in Section 77. Paragraph (3) of that Act, according to the framework of conditions laid down in Section 84. Paragraphs (2) and (3) of the same Act, based on the submission made by the relevant budgetary

Parliamentary commission based on the Commission's draft proposal. The Commission's financial management shall be audited by the State Audit Office.

(2) The Commission shall, until the approval of its new financial budget, operate on the basis of its latest approved financial budget.

(3) The Commission's registered head office shall be in Budapest.

(4) The Office of Commission shall be the Commission's administrative organ.

(5) Subsequent to the expire of the term of appointment, the duration of appointment of a Member of the Commission shall be deemed as continuous employment status, or a public employment or civil service status, or service legal status, or, in Courts or Prosecutor's Offices, term of service status.

(6) From the date of the Commission's formation, the employer of a Member of the Commission shall allow, by request, the Member to take unpaid leave for the whole or part of the duration of his appointment as a Member. However, the unpaid leave shall, for the purpose of calculating the length of pensionable service, qualify as employment.

(7) A Member, who, prior to his election to the Commission, discontinued his former continuous employment status, public employment or civil service status, service legal status or, in Courts or Prosecutor's Offices, his term of service status, in order to comply with the rules laid down in this present Act concerning the conflict of interests, shall be reinstated, upon his written application submitted within 30 days from the discontinuation of his appointment as a Member, to his former employment or legal status.

(8) In the case of a Member of the Commission, the national insurance rules applicable to employees shall apply in such a manner that his remuneration from the Commission shall serve as the base for national insurance and pension contributions. Payment and accounting of these contributions also the administration and filing thereof shall be regulated within the framework of the agreements made between the Office of the National Radio and Television Commission and the National Health Insurance Fund also between the Commission and the National Pension Assurance Board.

(9) Employees of the office are civil servants, hence the provisions of Act No 23 of 1992 on the legal status of civil servants (hereinafter: Civil Service Act) shall apply in their case, with the deviations laid down in this present Act. The head of the office shall be nominated and appointed by the Chairperson of the Commission, who will exercise the employer's rights over his employment. The legal status of the head of the office is the equivalent to that of a deputy secretary of the state.

(10) The office may also employ external advisors on a contractual basis.

TITLE TWO

Section 33

The election of the Commission

(1) The Commission is elected for a four-year term by a single majority of all Members of Parliament. The Chairperson and Members of the Commission may not be relieved.

(2) No less than five Members shall constitute the Commission.

(3) The Chairperson of the Commission shall be jointly nominated by the President of the Republic and the Prime Minister.

(4) The other Members of the Commission shall be nominated by the Parliamentary factions. Each Parliamentary factions shall nominate one Member. If on the side of the Government or of the Opposition there is only one parliamentary faction, that one faction shall be entitled to nominate two Members.

(5) Nominations of Commission Membership candidates shall be made within eight days from the commencement date of the Commission election procedures. The nominated candidates shall be interviewed - but not concluding

in a vote - by the competent Parliamentary committee of cultural and press issues. It will not be necessary to interview a candidate again, who, having failed to be elected before, was re-nominated by a Parliamentary faction.

(6) The election of Members shall be held within fifteen days from the nominations. A new candidate shall be nominated to replace a candidate who failed to win the necessary votes, within fourteen days from the election. A candidate may not be nominated again if he failed to win at least ten percent of all members of Parliament.

(7) The Commission is considered to be formed when all its Members are elected. However, the Commission may be formed if any one of the Parliamentary factions fails to nominate its candidate within the deadline specified in Paragraph (5); and, if that Parliamentary faction wishes to, it may, exercise its nominating right after the formation of the Commission, and Parliament shall elect a Member based on this late nomination for the remaining term of the Office of the Commission.

(8) If a new Parliamentary faction is formed subsequent to the election of the Commission, Parliament shall elect a new Member, based on the nomination of this new faction, for the remaining term of the Office of the Commission.

TITLE THREE

Section 34

Conflict of interests

(1) Only a person in the possession of a higher education degree, with no criminal record and with no less than five years' professional experience may be nominated as a Member of the Commission. Professional experience mean the activities in particular, of information, programme editing and production, telecommunications, frequency management and also the technical, legal, administrative, economic, cultural scientific and public opinion polling activities associated therewith.

(2) He/she who is

- the President of the Republic, the Prime Minister, a member of the Government, the Mayor of Budapest, a mayor, chairman or deputy chairman of a County Corporation of elected representatives, a Member of Parliament or his employee, a national or regional officer of a political party;
 - the head, member of the governing body, or manager, or anyone who has a legal status of appointment or employment with a broadcaster, programme distributor, press publisher or press distributor;
 - a broadcaster, programme distributor, press publisher, press distributor or anyone who has a direct or indirect interest held in such an enterprise;
 - a member of the Board of Trustees of, or an employee of, the Hungarian Radio Public Foundation, of Hungarian Television Public Foundation or of the Public Television Foundation 'Hungaria'.
- may not be a Member of the Commission.

(3) A close relative - according to the term defined in Paragraph b) of Section 685. of the Civil Code - of a person specified under a)-c) of Paragraph (2), may not be a Member of the Commission.

(4) The candidate must make, prior to his election, a written statement, in which he declares that no conflict of interests exists in connection with the status he is seeking, or, that he undertakes, subject to his being elected, to terminate the interests that may give rise to conflict with his status.

Section 35

(1) A Member of the Commission shall not

- have a legal status which in effect entitles him to an appointment or employment with a broadcaster, programme distributor, press publisher or press distributor;
- be the owner of the organ (member, share holder, member of its Commission of Directors or of its Supervisory Committee, manager, or also its auditor) specified in a), including the member of the administering organ of the foundation.

(2) A close relative - according to the term defined in Paragraph b) of Section 685. of the Civil Code - of a Member of the Commission shall not be the owner of the organ (member, share holder), specified in a) member of its Commission of Directors, Board of Trustees or of its Supervisory Committee, managing director, or also its auditor.

(3) The restrictions on conflict of interests specified in (1) and (2) shall also apply for the first six months subsequent to the discontinuation of the Membership status in the Commission.

(4) For the whole term of the broadcasting licence, the Member, for the first half of the licence term, the close relative - according to the term defined in Paragraph b) of Section 685. of the Civil Code - of the Member of the Commission, shall not establish such a legal status with the broadcaster receiving its broadcasting rights during the Member's term of office, that could qualify as appointment or employment. In the case of a programme distributor the term of prohibition is four years for the Member and two years for his close relative, subsequent to the discontinuation of the membership status in the Commission.

(5) A Member of the Commission shall not be involved in party political activity, nor shall he make a party political statement.

A Member of the Commission shall not carry out any gainful trade or profession, except those scientific, educational, literary, artistic and other activities that fall under the protection of copyright law, and he may not accept remuneration from a broadcaster for his scientific, educational, literary, artistic and other activities that fall under the protection of copyright law.

TITLE FOUR

Section 36

Duties of Commission Members

(1) The Member of the Commission shall not disclose any state secret, service and business secret obtained in the course of performing his duties.

(2) Upon coming into his office, the Member of the Commission shall, in front of the Speaker of Parliament, take the oath the wording of which constitutes an Annex to this present Act.

(3) The Member of the Commission shall be under obligation to make a statement of his personal assets, at the time of his taking and of leaving office. These statements of personal assets shall be safely kept by the Speaker of Parliament.

TITLE FIVE

Section 37

Discontinuation of Commission Members' office

(1) The office of a Member of the Commission shall come to an end

- upon the expire of the Commission's term,
- upon his resignation,
- upon the establishment of a conflict of interests,
- through dismissal,
- through expulsion,
- upon losing the appointment,
- upon the death of the Member,
- upon the discontinuation of the nominating Parliamentary faction,
- upon the termination of the Commission's appointment (as specified in Section 45. Paragraph (1) Sub-paragraph c))

The termination of the Member's office shall be declared by the Chairperson of the Commission in the cases of Paragraph (1) Sub-paragraphs b) and f); by the full Commission Session, in the cases of Paragraph (1) Sub-

paragraphs c), d) and e). The termination of the Chairperson's office shall be jointly declared by the President of the Republic and the Prime Minister.

(3) If a conflict of interests arises in connection with a Member or the Chairperson of the Commission, and the cause of the rise of such conflict of interests is not eliminated within ten days after the cause was created, or after the date of the Commission Session establishing the existence of such conflict of interests, then the full Commission Session will declare, in the form of a Commission Resolution, that the Member's or Chairperson's office is terminated. From the time of adopting the Resolution, the Member or Chairperson of the Commission shall not exercise his authority associated with his office.

(4) The Member's office shall be terminated by dismissal if the Member fails to fulfill his duties for an uninterrupted period of three months due to reasons beyond his control.

(5) The Member's office shall be terminated by expulsion if

the Member fails to fulfil his duties due to reasons for which his responsibility can be established,

the Member's culpability was established by a Ruling of a Court and the Member was given a prison sentence, in force.

(6) The investigating authority shall notify the Commission of any criminal proceedings in progress against a Member or the Chairperson of the Commission. For the time until proceedings are concluded the full Commission Session may suspend the subject of investigation, in the case of a Member, by a simple majority vote, in the case of the Chairperson, by a two-thirds majority vote.

(7) If a Parliamentary faction ceases to qualify for two nominees to the Commission, the faction must state, within fifteen days, which of the two Members elected concurrently shall continue his office as the faction's nominee. If the Parliamentary faction fails to make the statement, the mandate of both concurrently elected Members shall be terminated, and the faction may exercise its nomination right again. If the two Members have won their mandate at different times, the mandate of the more recently elected Member shall be terminated.

(8) If the Commission Session is deliberating a motion on an issue of a conflict of interests or of expulsion of a Member, the Member in question may not cast his vote, and the unanimous vote of all Members entitled to vote shall be needed to reach a Resolution. If no unanimous conclusion is reached by the Commission, the Chairperson offers the motion to Parliament for decision. In this case, resolution on the conflict of interests, of dismissal or of expulsion lies with a two-thirds majority vote of Members of Parliament.

(9) In the case of such a motion is made against the Chairperson of the Commission in processes defined in Paragraphs (3), (6) and (8), the Member empowered - by the Commission's procedural order - to exercise the Chairperson's authority, shall proceed.

Section 38

(1) If a Member's term of office is terminated, nomination procedure shall start within eight days. Nomination for the new Member shall be made by the Parliamentary faction originally nominating the former Member whose seat is vacated.

(2) The term of the new Member's appointment shall be the same as the residual period of the Commission's term.

TITLE SIX

Section 39

Remuneration of the Commission's Members

(1) Remuneration (fees and entitlements) of the Chairperson of the Commission shall be equivalent to those of a departmental minister, remuneration of a Member shall be equivalent to that of a permanent secretary. Members and the Chairperson shall also be entitled to forty working days' annual holiday each.

(2) Subsequent to the expire of the Members' and Chairperson's term of office, the Members and Chairperson - if they are not re-elected - shall be entitled to their regular remuneration for an additional six months.

(3) A Member of the Commission, if relieved from his office due to health reasons, shall be entitled to a compensation, equivalent to six months' usual remuneration, or to not more than the remuneration equivalent due for the term actually served from the election up to the relief.

(4) In the case of dismissal on the grounds of conflict of interests, or expulsion, the Member or Chairperson shall not be entitled to any compensation.

TITLE SEVEN

Section 40

Operation of the Commission

(1) The Commission shall determine its own procedural order and publish it in "Official Announcements of Hungary".

(2) The procedural order will include the matters related the Members' and Chairperson's activities not regulated in this present Act.

(3) If the Chairperson cannot, with apologies, attend the Commission Session, another Member shall carry out the Chairperson's tasks, following the order of substitution laid down in the Commission's procedural order.

TITLE EIGHT

Section 41

Responsibilities of the Commission

(1) It will be the responsibility of the Commission to

- fulfil the tasks of inviting tenders and evaluating tender bids for broadcasting rights and for satellite channels made available for broadcasting under the regulation of Governmental organs;
- perform the supervisory and control tasks laid down in this present Act,
- operate a Complaints Committee for examining individual notices,
- operate a programme monitoring and analysis service; and to submit the studies and findings of this service to the concerned organs, namely to the Hungarian Radio Public Foundation, Hungarian Television Public Foundation, Public Television Foundation 'Hungaria' and to the public service broadcasters continuously and free of charges;
- form and express opinion on the draft bills related to frequency management;
- delegate a number - specified in a separate Act - of members to the National Telecommunications and Informatics Council;
- fulfil the tasks associated with broadcasting contracts;
- maintain official and public records on broadcasts and programme distribution operated pursuant to broadcasting contracts or registration respectively;
- regularly monitor the compliance with broadcasting agreements made with the Commission;
- draft position papers and recommendations on the conceptual issues of the development of Hungarian broadcasting system, including multi-channel cable television systems and the audio-visual context, also to participate in the decision-making concerning those;
- initiate proceedings in consumer protection issues and against practices of unfair market competition;
- provide the state administration the information necessary for planning of central budget and control the enforcement thereof;
- determine and publish the broadcast fee(s) applicable to broadcasting by programme distribution and by satellite; and also to
- perform its other tasks laid down in this present Act or in other statutes of law pursuant to the authorisation of this present Act.

(2) The Commission fulfils its task laid down in Paragraph (1), Sub-paragraph I) by means of receiving and recording of the programme, or examining the programme recorded by the broadcaster and also by means of authority inspection.

Section 42

(1) The Commission, in the course of formulating its frequency management concept associated with broadcasting, shall take non-profit oriented broadcasting into consideration.

(2) The Commission shall publish its frequency management concept associated with broadcasting in Muvelodési Közlöny.

TITLE NINE

Section 43

The Commission's report

(1) The Commission shall send a report on its operation in the previous year to Parliament by not later than 1st March, every year. The report shall cover, in particular

- whether the objectives of freedom of opinion, provision of balanced information are met,
- the ownership position of broadcasters and of periodical and daily publications connected to broadcasters, as laid down in Chapter Eight of this present Act,
- how frequency management meets the needs of broadcasting, and also
- the economic situation and financial conditions of broadcasting, initiating possible changes in legislation if necessary.

(2) The report shall be published in Muvelodési Közlöny.

TITLE TEN

Section 44

Rules of decision-making

(1) The Chairperson may not exercise his vote related to issues specified in Sections 45. and 46.

(2) The extent of the Chairperson's vote can be expressed in a simple fraction the value of which is calculated by the following formulate:

- if an equal number of Members are nominees of the governing and of the opposition Parliamentary factions, then the numerator shall be one and denominator shall be the number of Members plus one,
- if not equal number of Members are nominees of the governing and of the opposition Parliamentary factions, then the numerator shall be one and denominator will be one plus twice the larger number of Members nominated by the governing or by the opposition parties.

(3) The extent of a Member's vote can be expressed in a simple fraction the value of which is calculated by the following formulate:

- if the Chairperson is entitled to exercise his vote, the extent of the total Chairperson's vote shall be deducted from the total extent of the votes, then fifty percent of the residue shall be divided equally amongst the members nominated by the governing faction and the other fifty percent shall be divided equally amongst the members nominated by the opposition faction.
- if the Chairperson is not entitled to cast his vote, then fifty percent of the votes shall be divided equally amongst the members nominated by the governing faction and the other fifty percent shall be divided equally amongst the members nominated by the opposition faction.

(4) The Commission shall, with the exception of the cases provided in Sections 45. and 46., bring its resolutions by a simple majority vote calculated by the formulae specified in Paragraphs (2) and (3).

Section 45

(1) The procedure for adjudicating bids received in response of tender invitations for the national radio and television broadcasting licence shall be in the following manner:

- in the first round of votes, the Chairperson is not entitled to cast his vote. A two-thirds majority is required for the validity of a resolution;
- if the first round of votes is inconclusive, the Commission shall have a second vote not earlier than three days and not later than eight days after the first round. In this round, the Chairperson shall also be entitled to cast his vote. A two-thirds majority is required for the validity of a resolution;
- if the vote specified in b) is also inconclusive, the Commission shall be dissolved - without the termination of the Chairman's appointment. Within thirty days from the dismissal of the Commission, Parliament shall elect new Members according to the provisions laid down in Section 33. of this present Act, with the difference that Members of the previous Commission may not be nominated in the course of this election.

(2) The Commission elected as laid down in Paragraph (1) Sub-paragraph c) shall adjudicate the bids received, as follows:

- in the first round of votes, the Chairperson is also entitled to cast his vote. A two-thirds majority is required for the validity of a resolution;
- if the first round of votes is inconclusive, the Commission shall have a second vote not earlier than three days and not later than eight days after the first round. In this round, the Chairperson shall also be entitled to cast his vote. A two-thirds majority is required for the validity of a resolution. If the vote is still inconclusive, a new tender shall be invited within sixty days.

Section 46

(1) The procedure for determining the general terms and conditions of tender, and the specific tender conditions and invitation for national and regional radio and television broadcasting licence and for adjudicating bids received in response to tender invitations for regional radio and television broadcasting licence shall be as follows:

- in the first round of votes, the Chairperson is not entitled to cast his vote. A two-thirds majority is required for the validity of a resolution;
- if the first round of votes is inconclusive, the Commission shall have a second vote not earlier than three days and not later than eight days after the first round. In this round, the Chairperson shall also be entitled to cast his vote. A two-thirds majority is required for the validity of a resolution;
- if the second round of votes in a matter of general conditions or inviting a tender is inconclusive, the Commission shall have a third vote, not earlier than thirty days and not later than sixty days after the second round. In this round too, the Chairperson shall be entitled to cast his vote. A two-thirds majority is required for the validity of a resolution;
- if the second round of votes on the adjudication of a bid for regional radio and regional television broadcasting licence is inconclusive, a new tender shall be invited within sixty days.

(2) The procedure for adjudicating tender bids for local radio and television broadcasting licence shall be as follows:

- in the first round of votes, the Chairperson is entitled to cast his vote. A two-thirds majority is required for the validity of a resolution;
- if the first round of votes is inconclusive, the Commission shall have a second vote not earlier than three days and not later than eight days after the first round. The Chairperson shall be entitled to cast his vote in this round too. A simple majority is required for the validity of a resolution

(3) If the adjudication of bids is inconclusive, a new tender shall be invited within sixty days.

TITLE ELEVEN

Section 47

Complaints Committee

(1) Complaints related to the violation of the criteria of providing balanced information as laid down in Section 4. of this present Act, shall be assessed by the Commission's Complaints Committee (hereinafter: Complaints Committee).

(2) Members of the Complaints Committee are independent, subordinated only to the law, and, in the course of performing their duties, shall accept no orders from anyone.

(3) A person, who is a member of the Board of Trustees of the Hungarian Radio Public Foundation, of the Hungarian Television Public Foundation or of the Public Television Foundation 'Hungaria', nor a person who could not be elected as a Member of the Commission, may not be a member of the Complaints Committee. The detailed regulation of the Complaints Committee members' function shall be included in the Commission's Standing Procedures.

(4) Any member of the Complaints Committee shall, without delay, inform the Chairperson of the Commission about any cause of a conflict of interests. If criminal proceedings are in progress against a member of the Complaints Committee, the investigating authority shall inform the Commission to this effect.

(5) If a conflict of interests exists or a Court rules that a Member of the Complaints Committee was guilty of a wilful criminal offence the Commission shall terminate the position of such member of the Complaints Committee.

Section 48

(1) Council composed of three members shall proceed in individual cases. One of this members of the proceeding Council shall be a person with a degree in law.

(2) The Standing Procedures of the Complaints Committee as well as the procedures of the Councils acting in individual cases, including the rules of expulsion of a proceeding member of the Complaints Committee on the grounds of impartiality, shall be defined by the Commission. In the course of this elaboration, the principles of equality of parties, transparency and neutrality shall be taken into consideration.

(3) The Standing Procedures of the Complaints Committee shall also include the rules of proceeding in cases of complaint not falling under Section 4. In such cases, the Complaints Committee studies the complaint and informs the complainant, the broadcaster, and the public if necessary, on the Committee's views on the case.

(4) The administrative tasks of the Complaints Committee shall be carried out by the Commission's Office.

(5) The Commission shall discuss and evaluate the decisions arrived at by the Complaints Committee at least once in every six months' period.

Section 49

(1) If a broadcaster provides one-sided information on social issues concerning the population of the signal area, especially if it only offers the opportunity to represent a single or one-sided view on the controversial issue, or if he seriously violates the fundamental principle of the provision of balanced information, then the representative of the undisclosed opinion or the injured party himself (hereinafter: the complainant) may raise an objection to the broadcaster.

(2) The complainant may, in writing, request the broadcaster to publish his opinion of the objected communication with conditions similar to those of the objected communication, within forty-eight hours, or, in the case of a complainant residing (staying or operating) outside the borders of the Republic of Hungary, eight days after the original publication, or in the case of a repeated publication, after the last showing of the objected communication.

(3) The Broadcaster shall make a decision to accept or reject the complaint, within forty-eight hours from the receipt of the complaint. The complainant shall be immediately informed on the decision. Within forty-eight hours of the receipt of such decision, or, in the absence of a decision within six days following the publication of the objected communication - twelve days in the case of a complainant staying abroad -, the complainant may lodge a complaint in writing with the Complaints Committee with accurate identification of the broadcaster and the programme item representing the objected view. A complaint may also be lodged with the Complaints Committee if the broadcaster fails to act upon the complaint in spite of his statement accepting the case for complaint. In this case, the complaint shall be lodged with the Complaints Committee within forty-eight hours following the expiration of the time undertaken for acting upon the complaint.

(4) The Complaints Committee shall decide upon the issues submitted by the complainant within fifteen days after the complaint is lodged.

(5) At the request of the Complaints Committee, the broadcaster shall make available to the Complaints Committee the recording of the disputed programme item and any related information requested without delay.

(6) The Complaints Committee may hear both the broadcaster and the complainant. Failure to attend the hearing shall not hinder the forming of a conclusion.

Section 50

- (1) The Complaints Committee shall reject unfounded complaints or those that are not lodged in accordance with the conditions laid down in this present Act.
- (2) If in the opinion of the Complaints Committee the broadcaster has violated the requirement for the provision of balanced information, then the broadcaster shall publish - with no explanatory comment from his part - the findings of the Complaints Committee at the time and in the manner specified in the Complaints Committee's standpoint, or, alternatively, the broadcaster shall offer the complainant an opportunity to present his standpoint.
- (3) In the case of a more severe or repeated violation of the requirement for the provision of balanced information, the Complaints Committee may initiate at the Commission to impose a fine.

Section 51

- (1) An appeal for legal remedy may be lodged with the Commission against the Complaints Committee's decision, within forty-eight hours after the decision is communicated. The broadcaster's appeal has a delaying effect.
- (2) The Commission shall reach a decision upon the appeal for legal remedy within eight days. The Commission's binding decision, or, in the case of the rejection of the broadcaster's appeal the original decision of the Complaints Committee shall be enforced immediately.
- (3) A review of the Commission's decision may be sought from a Court. The Court shall proceed according to the provisions of Act No 3 of 1952. on Civil Court Proceedings (hereinafter: Ccp.) and to its numerous amendments. The Court may reach a different ruling from the Commission's decision.
- (4) The complaint that was ruled as well-founded shall be published, beside in the broadcaster's programme, in the Muvelodési Közlöny.

TITLE TWELVE

Section 52

The relationship between the Commission and the Telecommunications General Inspectorate

- (1) In order to facilitate the preparation of the broadcasting tender invitations, the Commission shall invite the Telecommunications General Inspectorate, through the Minister of Transport, Telecommunication and Water Management, to assemble the list of transmission opportunities and the associated frequency allocation plans.
- (2) If the Telecommunications General Inspectorate is unable to fulfil the task by the time requested by the Commission, the Minister of Transport, Telecommunications and Water Management may authorise an extension to the deadline.
- (3) In its invitation referred to in Paragraph (1), the Commission shall define
 - the conceptual considerations necessary for the planning of frequency allocation for broadcasting purposes, especially in regards of the objectives of using the frequencies;
 - the preferences to be applied for frequency allocation planning for broadcasting purposes;
 - the guidelines and time schedule for frequency allocation planning for broadcasting purposes.
- (4) The frequency allocation plan developed by the Telecommunications General Inspectorate shall include:
 - the nominal sites of broadcast transmitter stations - in the case of surface antenna transmission - as well as the other technical specifications of the installation;
 - the expected signal area covered by the stations;
 - the frequency band in accordance with the designations of the International Radio Regulations.
- (5) The Commission may return the frequency allocation plan for amendments.
- (6) The Commission shall make the frequency allocation plan available for public inspection at least fifteen days prior to its approval. The Commission shall publish an notice of the date and place of the release in not less than two national daily papers, not later than two weeks in advance - in which the Commission specifies the time and place of the public hearing to be held not sooner than ten days after the closing of the public inspection. To the public Hearing, Section 94. of this present Act shall apply.
- (7) The frequency allocation plan and the conceptual considerations of planing are public, and are open for inspection to anyone at the Telecommunications General Inspectorate.

CHAPTER IV PUBLIC SERVICE BROADCASTERS

TITLE ONE

Section 53

Public Foundations

(1) In order to ensure the operation, to protect the independence of public service broadcasting, Parliament, in line with Sections 140.-141., forms the Hungarian Radio Public Foundation, the Hungarian Television Public Foundation and also, by the request of its founder, transforms the Public Television Foundation 'Hungaria' (hereinafter collectively: Public Foundations).

(2) This present Act does not affect the name, object and assets of Public Television Foundation 'Hungaria'.

(3) The Memorandum and Articles of Association of the Public Foundations (and the amendments to the Memorandum and Articles of Association of Public Television Foundation 'Hungaria') is accepted by the two-thirds majority vote of members present at Parliament. Matters of operation and organisation of the Public Foundations not regulated in this present Act shall be determined in the Memorandum and Articles of Association.

(4) The general provisions regulating public foundations shall apply to the Public Foundations unless this present Act regulates otherwise.

Section 54

(1) Parliament shall determine the formation assets of the Public Foundation in the Memorandum and Articles of Association .

(2) The Founder shall transfer, in the form of an after-the-effect asset allocation order,

- under the ownership of the Hungarian Radio Public Foundation, the title to the fixed and current assets and also to the rights representing asset values currently held by Hungarian Radio operating as a state budgetary organ,
- under the ownership of the Hungarian Television Public Foundation, the title to the fixed and current assets and also to the rights representing asset values currently held by Hungarian Television operating as a state budgetary organ,
- subsequent to the severance of the title, or according to the provisions of the Memorandum and Articles of Association, under the ownership of the Hungarian Radio Public Foundation, and Hungarian Television Public Foundation respectively, the title to the fixed and current assets currently being jointly used by the Hungarian Radio, and Hungarian Television operating as state budgetary organs.

Section 55

The Boards of Trustees

(1) The management bodies of the Public Foundations are the Boards of Trustees.

(2) The Boards of Trustees shall comprise of members elected by Parliament or members delegated by organisations specified in this present Act.

(3) The members elected by Parliament shall constitute the Presidential Body of the Board of Trustees.

(4) Parliament shall elect eight members into the Boards of Trustees respectively by a simple majority vote for each members individually.

(5) Half of the members eligible to be elected into the Board of Trustees shall be nominated by the governing Parliamentary factions, the other half by the opposing factions in such a manner that at least one member nominated by all factions shall be elected.

(6) Nominations shall be made within eight days after the start of the election procedure. The election shall be held within fifteen days after the nominations are received.

(7) If one of the factions does not nominate a member, the other faction(s) of the same side of the House may nominate the four members. If a candidate fails to win the necessary votes to be elected, a new candidate shall be nominated to replace him and a new election shall be held within fifteen days. A candidate who failed to win at least ten percent of the votes of all Members of Parliament on the previous election, shall not be re-nominated.

(8) The Presidential Body of the Board of Trustees is formed when all of its members are elected. However, the fact that the governing or the opposition parties do not nominate a member, shall not hinder the formation of the Presidential Body of the Board of Trustees.

(9) The Presidential Body of the Board of Trustees is elected for a term of four years.

If, during the term of the Presidential Body of the Board of Trustees a change in the status of the governing or opposition factions occur, this fact shall not affect the appointment of the members of the Presidential Body of the Board of Trustees, but, based on new nomination(s), further member(s) shall be elected into the Presidential Body for the residual term, if it is necessary for the purpose of maintaining the equilibrium. If the factions of the given side fail to nominate a mutually acceptable candidate, the nomination shall be decided upon by a draw.

(10) Parliament shall elect the President of the Commission, - thus, also of the Presidential Body - based on the governing factions' nomination, whilst the vice-president based on the opposing factions' nomination.

(11) If the factions fail to agree on the nomination of the President or vice-president, the nomination shall be decided upon by a draw.

Section 56

(1) The following organisations shall delegate twenty-one members to the Board of Trustees of the Hungarian Radio Public Foundation and the Hungarian Television Public Foundation each,:

- one member delegated by the self-governments, or lacking this, the national associations of national and ethnic minorities living in Hungary,
- one member delegated by the Hungarian Roman Catholic Church, the Hungarian Calvinist Church, the Hungarian Lutheran Church and by the Hungarian Association of Jewish Religious Communities,
- one member delegated by a Church not mentioned under b),
- one member delegated by the national human rights organisations,
- four members delegated by the national professional organisations operating in the fields of literature, theatre, film, performing arts, music, dance, fine arts and applied arts and other areas of cultural activities,
- two members delegated by the national professional organisations operating in the fields of science and education,
- one member delegated by the national associations of Trade Unions,
- one member delegated by the national and interest representation organs of employers and entrepreneurs,
- one member delegated by the national organs of professional and interest representation of journalists,
- one member delegated by the national organisations of environmental protection, nature preservation and of animal rights,
- one member delegated by the national organisations of women's rights issues,
- one member delegated by the national organisations of children's rights issues and youth representation,
- one member delegated by the national representative organs of old age pensioner's issues,
- one member delegated by the national organisations representing the interests of the severely disadvantaged due to their physical condition,
- one member delegated by the national organs representing sports issues,
- one member delegated by the national organs of representing local municipalities' issues, and
- one member delegated by the Hungarian organisations outside the boundaries of Hungary.

(2) The following organisations shall delegate twenty-three members to the Board of Trustees of Public Television Foundation 'Hungaria':

- one member delegated by the self-governments, or lacking this, the national associations of national and ethnic minorities living in Hungary,
- one member delegated by the Hungarian Roman Catholic Church, the Hungarian Calvinist Church, the Hungarian Lutheran Church and by the Hungarian Association of Jewish Religious Communities,
- one member delegated by a Church not mentioned under b),
- one member delegated by the national human rights organisations,
- three members delegated by the national professional organisations operating in the fields of literature, theatre, film, performing arts, music, dance, fine arts and applied arts and other areas of cultural activities,
- two members delegated by the national professional organisations operating in the fields of science and education,
- one member delegated by the national organs of professional and interest representation of journalists,
- one member delegated by the national organisations of environmental protection, nature preservation and of animal rights,

- one member delegated by the national organisations of women's rights issues,
- one member delegated by the national organisations of children's rights issues and youth representation,
- one member delegated by the national organisations representing the interests of the severely handicapped due to their physical condition,
- one member delegated by the national organs representing sports issues,
- seven members delegated by the Hungarian organisations operating in the neighbouring countries, and one member by the organ entitled, in the World Association of Hungarians, to represent the rest of Hungarians living abroad.

(3) The Commission shall notify, based on the recommendations of the Office of Hungarians Living Abroad, the organs specified in Paragraph (1) Sub-paragraph r), and in Paragraph (2) Sub-paragraph m).

Section 57

(1) With the exception of Section 56. Paragraph (3) of this present Act, an organ entitled to delegate members shall be the one that is filed in the Commission's records.

(2) Invitations for enlisting in the records shall be published by the Commission in the Magyar Közlöny by 31st January, every year. Applications for inclusion must be lodged by 15th March, every year.

(3) The Commission shall file in its records the applying organ which was, at least two years prior to the publication of the invitation for enlisting, properly filed by the Court (Authority) in accordance with the rules relevant to its status. The applicant shall state under which of the categories defined in Section 56. it belongs.

(4) The term of office of delegated members is one year.

(5) The organs listed in the Commission's records under the same category defined in Section 56., are entitled to delegate a member to the Board of Trustees. If the participating organs cannot agree on a mutually accepted delegation, decision shall be made by means of a draw in public. The draw shall be performed by the Commission, in the presence of a Public Notary, by not later than 1st April, every year. Only the organs present may participate in the draw.

(6) Based on a draw, one organ may only delegate a member to one Board of Trustees. If the organ is entitled to delegate a member to several Public Foundations, then the organ shall specify to which Board of Trustees it wishes to exercise its delegation right. With regards to the other Commission(s) of Trustees, the draw shall be repeated.

(7) If an organ has already exercised its delegation rights and there is another organ within the same category, who had not yet delegated a member, the former organ may not participate in the agreements or draw for a period of three years subsequent to the expire of its mandate in the Board of Trustees.

Section 58

(1) The conflict of interests rules defined in Section 35. Paragraph (1), with the exception of Section 34. Paragraph

(2), shall apply to the members and the Presidents of the Board of Trustees. A close relative - as defined in Section 685. Sub-paragraph b) of the Civil Code - of the President or a member of the Presidential Body shall not have a senior position with the public service broadcaster concerned.

(2) A member of the Board of Trustees may not, for a period of one year subsequent to the expire of his term of mandate, establish a legal relationship to the effect of employment with the public service broadcaster, of which he was a member of the Board of Trustees. This period shall be two years in respect of the President or a member of the Presidential Body.

(3) The mandate of the Board of Trustees may be, before its expire, revoked by the competent Parliamentary committee, in accordance with Section 74/C. Paragraph (6) of the Civil Code. Dismissal of individual members, of the President (Vice-president) on the ground of conflict of interests shall be within the discretion of Parliament, or, of delegated members, within the discretion of the delegating organ. In these issues a two-thirds majority vote of present members of Parliament shall rule.

(4) Members (the President) of the Board of Trustees shall not have a legal relationship which amounts to employment with the Public Foundation. Section 35. Paragraph (5) applies to them. They shall not accept, on any account, remuneration from the public service broadcaster supervised by them.

Section 59

Rights and duties of the Board of Trustees and of the Presidential Body

(1) The following shall be within the competence of the Board of Trustees:

- exercising the rights of a General Session in respect of the public service broadcasting corporation, in accordance with Act No 6 of 1988. on Trading Corporations (hereinafter: Tc.) with the differences specified within this present Act,
- acceptance of the annual business plan and approval of the Balance Sheet of the Public Foundation,
- making recommendations to the Commission designed for increasing operational revenues,
- making recommendations to the relevant Parliamentary Committee, in order to initiate subsidies or targeted assistance from the central budget,
- matters that are placed under the jurisdiction of the Board of Trustees by the Public Foundation's Memorandum and Articles of Association - within the framework of this present Act.

(2) The Presidential Body shall manage the Public Foundation's assets in its capacity of being the managing organ of the Public Foundation.

Section 60

Financing of the Public Foundation

(1) The Public Foundation's income shall be generated from:

- the proportion of licence fee revenues as determined in this present Act,
- the proportion of broadcast revenues as determined in this present Act,
- the yield of the assets owned by the Public Foundation,
- other foundation revenues (subsidies or targeted assistance from the central budget, donations).

(2) The Public Foundation shall incur expenses arising from:

- contributions towards the operation and development costs of the public service broadcaster,
- the own costs (expenses) of the Public Foundation.

(3) The Public Foundation shall not engage in any habitual business activity, establish economic associations, public society or a foundation, nor shall acquire equity in, or form a trading corporation.

(4) Its operating costs shall be covered from its entitlement to the portion of licence fee revenues, and it shall transfer any unused amount to support the public service broadcaster.

(5) Finance management of the Public Foundation shall be audited by the State Audit Office.

Section 61

Operation of the Board of Trustees and of the Presidential Body

(1) The Board of Trustees and the Presidential Body shall hold meetings as often as necessary for fulfilling their tasks, but the Board of Trustees at least once every quarter, and the Presidential Body at least once every month. The President of the Board of Trustees (Presidential Body) shall convene the meetings, even if issues coming under the authority of the General Session are to be discussed. To these points of agenda, the Executive Chairman of the public service broadcaster shall also be invited to attend. The President shall be under obligation to convene the extraordinary meeting of the Board of Trustees (Presidential Body) within eight days from such a request made, and endorsed with a proposed agenda, by the majority of members of the Board of Trustees (Presidential Body). Failure to the President's meeting of this obligation, the members themselves are entitled to convene the extraordinary meeting.

(2) All the members of the Board of Trustees (including those of the Presidential Body and the President himself) shall have equal vote.

(3) The meeting has the necessary quorum if it is attended by at least half of all members and the President or vice-president. A resolution is made by a simple majority of the votes of the members present. However a two-thirds majority of the votes of the members present at the Board of Trustees meeting is necessary for the election or one-time extension of the appointment of the Executive Chairman of the public service broadcaster (Section 66. Paragraph (1)).

(4) Different from the content of Paragraph (3), a resolution for the dismissal of the President, or for the prohibition of the Vice-Presidents' appointment or withdrawal of their appointment, can only be made by a two-thirds majority of the votes of all the members (Section 66. Paragraph (1), Sub-paragraph d)).

(5) The President shall chair the meeting and assemble the agenda. Any member is entitled to propose a point of agenda, in writing, prior to the meeting, and the assembly shall make a decision on the inclusion of the issue in the agenda.

(6) If the Presidential Body is unable to nominate a person elected by a two-thirds majority vote of all the members of the Board of Trustees as set forth in Section 62. Paragraph (2) to the Executive Chairmanship of the broadcaster, and if he is also unable to invite a new tender for the position, lacking the same proportion of votes in favour within thirty days after the deadline of the original tender, the mandate of the Presidential Body shall expire. Parliament shall elect a new Presidential Body within one month. No member of the previous Presidential Body shall be nominated to this new body.

(7) The management, administration and administrative tasks of the Board of Trustees shall be performed by the Secretariat of the Board of Trustees. The Memorandum and Articles of Association shall detail the rules regulating the Secretariat of the Board of Trustees.

Section 62

Supervisory organ of the Public Foundation

(1) A Supervisory Committee shall supervise the activities of the Board of Trustees of the Public Foundation.

(2) The Supervisory Committee shall be composed of a Chairman and two further members.

(3) The Chairman and one member of the Supervisory Committee shall be nominated by the parliamentary opposition factions, the other member by the governing factions, following the rules of electing members to the Presidential Body of the Board of Trustees, with the difference that a Member of Parliament may also be nominated. The same rules apply to the election of these nominees as in the case of electing members to the Presidential Body of the Board of Trustees.

(4) The Supervisory Committee may request information from, and has the rights to inspect the documents of, the Board of Trustees. The Supervisory Committee has no power to bring a decision binding the Board of Trustees. If the Supervisory Committee finds shortcomings of finance management, or, that the Board of Trustees made such decisions that are against the law or are violating or endangering the realisation of the Public Foundation objectives, the Supervisory Committee shall refer its findings to the State Audit Office or to Parliament.

Section 63

Remuneration of members of the Board of Trustees and of the Supervisory Committee

A member of the Presidential Body of the Board of Trustees shall be entitled to a remuneration, being the equivalent of one hundred and forty percent, the President two hundred percent, the Vice-president an equivalent of one hundred and eighty percent, a member of the Supervisory Committee shall be entitled to the equivalent of seventy percent, the Chairman of the Supervisory Committee the equivalent of one hundred percent of the remuneration of a Member of Parliament, on top of which, these members are entitled to the reimbursement of expenses. Other members are also entitled to expenses.

Section 64

(1) For fulfilling the tasks of national public service radio and television broadcasting, the Hungarian Radio Public Foundation and the Hungarian Television Foundation shall form the Hungarian Radio Public Service Broadcasting Corporation (hereinafter: MR Rt.) and the Hungarian Radio Public Service Broadcasting Corporation (hereinafter: MTV Rt.) respectively, in a private association.

(2) Subsequent to the execution of the procedure laid down in Sections 141.-143. of this present Act, and from the date specified within, Magyar Rádió Magyar Televízió shall operate as single-member trading corporations founded by the Hungarian Radio Public Foundation and by the Hungarian Television Public Foundation respectively.

(3) The rules of the law laid down in Tc., applicable to Public Limited Companies and also including the general common rules of trading corporations, with the exception of special rules set forth in this present Act shall apply to MR Rt., MTV Rt. and Duna TV Rt. (hereinafter: the Corporations)

(4) The corporations consist of one issued, un-tradable share each.

Section 65

The Public Foundations shall exercise the founder's and shareholders' rights as set forth in Sections 288.-300. of Tc. The Public Foundations however, are not empowered to

- alter the range of activities of the Corporations,
- dissolve, merge, divide or transform the Corporations into other corporate forms,
- withdraw assets or draw dividends from the Corporations,
- to determine the structure or the content of the Corporations' programmes or programme items,
- give orders to the Executive Chairman of a Corporation concerning the employers' rights exercised,
- make a decision in such an issue that comes under the authority of the Executive Chairman or another organ as specified in this present Act.

Section 66

Jurisdiction of the General Assembly

(1) The Board of Trustees shall be the organ authorised to

- establish, amend and publish in the Magyar Közlöny, the Articles of Association of the public service broadcaster in a corporate form,
- elect the Executive Chairman of the Corporation, and the extension of the appointment on one occasion,
- relieve the Executive Chairman of the Corporation, forbid the appointment or withdrawal of appointment of the Deputy Chairmen - in the course of the meeting of the Board of Trustees held subsequent to the bringing of such a measure by the Chairman,
- initiate the dismissal of the Executive Chairman of the Corporation,
- protect the Corporation's independence,
- approve the public service broadcasting code and to publish it in Muevelodési Közlöny, to enforce the requirements set forth in the code and to annually evaluate the compliance with those requirements,
- approve the standing rules of archiving,
- annually evaluate the objectives undertaken by the Executive Chairman of the Corporation in his tender bid,
- increase or decrease the registered capital of the Corporation,
- approve the main principles and sums of the annual business and finance plan,
- determine the sums to be invested to the production of new Hungarian produced feature films to be broadcast, taking the proportions of non-Hungarian productions also into account,
- approve the Balance Sheet and Profit and Loss Statement,
- elect and dismiss the members of the Supervisory Commissions of the Corporations, in consideration with the provisions of Section 13. of Tc.,
- elect, appoint and dismiss the Auditors of the Corporations.

(2) The Presidential Body of the Board of Trustees is the exclusive organ authorised to

- invite and evaluate bids in a public tender for the position of Executive Chairman of the Corporation, determine the Executive Chairman's remuneration,

- recommend the election of the Executive Chairman, or invite new bids, recommend the dismissal of the Executive Chairman, or the extension of the Executive Chairman's appointment, without inviting bids in a public tender, on one occasion,
- inspect the management of the Corporation,
- issue preliminary authorisation for negotiating contracts of the value in excess of one Billion Hungarian Forints or ten percent of the planned turnover for the year
- issue preliminary consent of entering into a contract or a loan agreement of the value in excess of three hundred million Hungarian Forints or three percent of the planned turnover for the year,
- dispose real estate property, or rights representing asset value, of the value in excess of one hundred million Hungarian Forints,
- recommend the election, dismissal of the members of the Supervisory Committee, determination of the remuneration thereof,
- recommend the election, appointment and dismissal of the Auditors of the Corporations, determination of the remuneration thereof,
- monitor the compliance with the public service broadcasting code, to prepare the Board of Trustees' report on the issue,
- continuously monitor the implementation of the objectives undertaken by the Executive Chairman of the Corporation in his tender bid, and to prepare the Board of Trustees' report on the issue.

Section 67

(1) The executive management of the Corporation is the Executive Chairman's duty, no Commission of Directors shall operate. The Executive Chairman of the Corporation shall exercise all the power that are placed upon the Commission of Directors in the provisions of the Tc. The Executive Chairman works on a contract of appointment, his monthly remuneration, debited to the company under his management, shall be determined once every year.

(2) The Deputy Executive Chairmen of the Corporations are engaged in an employment status.

Section 68

The Executive Chairman of the Corporation reports to the (presidential Body of the) Board of Trustees on the activity of the corporation under his management.

Section 69

(1) Persons who - during the previous two years - used to be the President of the Republic, the Prime Minister, member of the Cabinet, state secretary, deputy state secretary, member of Parliament, the Mayor of Budapest or used to have positions in any national or regional organisation of a political party, shall not be elected to be the Executive Chairman of the Corporation.

(2) The Executive Chairman is elected for four years by the Board of Trustees by secret vote, based on the bids of the candidates. The bid shall include detailed plans of the candidate concerning service policy goals of information and culture of the Corporation, business plans and other question determined by the Presidential Body.

(3) The Presidential Body shall announce the tender 120 days before the end of office period of the Executive Chairman. Shall the office of the Executive Chairman comes to the end as a result of other reasons, the tender shall be announced within fifteen days.

(4) The office of the Executive Chairman can once be prolonged for four more years by the Board of Trustees without announcing the tender.

Section 70

(1) During his appointment, the Executive Chairman shall not be

- a Member of Parliament,
- member of a political party,
- member or President of the Board of Trustees or of the Commission.

- a share holding member or a senior officer in, a member of the Supervisory Commission of, a trading company that is in a business relationship with any of the Corporations,
- a share holding member of other trading company engaged in broadcasting or press publishing,
- a share holding member or a senior officer in, a member of the Supervisory Commission of, a trading company in a majority ownership of the Hungarian State.

(2) During his term of appointment, the Executive Chairman of the Corporation shall not engage in any gainful activity or occupation with the exception of scientific, educational, literary, artistic and other activities under the protection of copyright law; he shall not be entitled to copyright fees under such titles from the public service broadcaster managed by him, or, shall be under obligation to offer to charity all copyright royalties due to him from the public service broadcaster managed by him.

(3) The Executive Chairman of the Corporation shall pursue no party political activity and make no political statement.

(4) Prior to commencing his activity, the Executive Chairman of the Corporation shall make a written declaration to the effect that no conflict of interests exists in his case.

(5) In the two years directly subsequent to the expire of his term, the Executive Chairman of the Corporation shall not hold a senior office in an enterprise in majority state ownership.

Section 71

Within the framework of this present Act, other rules of the law, the Articles of Association, the Resolutions of the Board of Trustees and the public service broadcasting code, the Executive Chairman of the Corporation shall head the Corporation.

Within this activity, he shall

- make decisions on the order of the programmes,
- establish the organisational and operational code,
- submit the public service broadcasting code and provide for its implementation,
- prepare the standing order of archiving and provide for its implementation,
- determine and submit the annual business plan and provide for its implementation,
- prepare the Balance Sheet and Profit and Loss statement and submit them to the Board of Trustees for approval,
- submit the authorisation for negotiations or proposals requiring preliminary consent (Section 66. Paragraph (2) Sub-paragraph dc)),
- exercise the employer's rights over the Corporation's employees, including the Deputy Chairman (Chairmen)
- provide for the preparation of all the other submissions that are required under the provisions of this present Act or the Articles of Association, or by a Resolution made by the Board of Trustees,
- exercise all those rights that are endowed upon the corporations' Commission of Director under the provisions of the Tc.

Section 72

The Chairperson of the Corporation shall not receive any kind of benefits from the owners of the Corporation.

Section 73

Supervisory Committee of the Corporation

(1) Management of the Corporation shall be overseen by the Supervisory Commission. The Supervisory Commission is entitled to request information from the Executive Chairman or the employees of the Corporation, to study the Corporation's books, bank accounts, documents and cash counter at any time, or have those audited by specialised experts on the Corporation's expense.

(2) The Supervisory Commission shall be composed of three members. The members, apart from the member elected by the Corporation's employees, shall be elected by the Board of Trustees for a term of four years. In the

case of a partial change in the composition of the Board of Trustees, or of the Supervisory Commission, the appointment of the new member(s) shall be for the rest of the Supervisory Commission's original term.

(3) The Supervisory Commission shall, in the course of its first meeting, elect a Chairman out of its members.

(4) The Supervisory Commission itself shall establish the rules of its operation, and its Standing Orders shall be approved by the Board of Trustees.

(5) The Supervisory Commission has the necessary quorum, if at least two of its members are present.

(6) The Supervisory Commission is under obligation to examine all the reports to be submitted to the (presidential Body of the) Board of Trustees, that are concerned with issues of assets or finance under the General Session power placed on the Presidential Body or of the Board of Trustees.

(7) The internal audit organisation of the Corporation shall operate under the control of the Supervisory Commission.

(8) The provisions of the Tc. and of the Articles of Association shall apply to the other matters of organisation and operation of the Supervisory Commission.

Section 74

Auditors of the Corporation

(1) The Corporation's Auditors shall be elected by the Board of Trustees for a term of four years.

(2) The tasks, rights and duties of the Auditors shall be determined in the Articles of Association, in compliance with the Tc.

Section 75

Financing of the Corporation

(1) The state supports the corporations in line with their broadcasting costs, from the central budget, within Chapter "Parliament", through the Public Foundations.

(2) The state may support the Hungarian Radio Broadcasting Corporation , from the central budget, within Chapter "Parliament", through the Public Foundations, as state support funding of artistic groups.

(3) The Corporation, in order to help its main activity, may engage in enterprise. It shall invest its profits such earned exclusively to the continuation, development of broadcasting activity or the development of its enterprise.

(4) The Corporation shall not hold equity in another broadcaster.

(5) Works, being the basis of performing rights' entitlements to Magyar Rádió, Magyar Televízió and Duna Televízió, created before the legislation of this present Act, may be used by the public service broadcasters freely, mutually, with no charge nor violating the owner's programme plans, exclusively in their own programme.

Section 76

(1) The Executive Chairman, the Deputy Chairman, the Corporation's employee not exemplified from this restriction in the organisational and operational code, shall not enter into a contract or agreement on behalf of the Corporation in which the other party to the contract or agreement is he himself or his close relative - as defined in Section 685. Sub-Paragraph b) of Civil Code - or a trading company in which he himself or his close relative - as defined in Section 685. Sub-Paragraph b) of Civil Code - holds a direct or indirect equity, or other rights or interests. If a contract, within the sphere of the individuals referred to in the restriction, is made by another employee of the Corporation, the contract must be sent to the Corporation's Supervisory Commission immediately.

(2) The Corporation shall keep separate records of contracts the contract value of which are in excess of five hundred thousand Hungarian Forints. In the records, the updated set of data necessary for the contracting partner's official signature and the details of the services and consideration of the parties shall be held at all times. Contracts made with the same contracting partner within the same Calendar Year shall be treated, from this aspect, as one contract.

CHAPTER V

FINANCING SYSTEM OF BROADCASTING

TITLE ONE

Section 77

Broadcasting Fund

(1) The Broadcasting Fund (hereinafter: Fund) is an extra-budgetary state fund allocated for the purpose of supporting public service broadcasting, public broadcasters, non-profit oriented broadcasters, public service programmes and programme items, preservation and further development of culture, ensuring the diversity of programmes and also to promote other tasks defined in this present Act.

(2) Resources of the Fund shall be used exclusively for the objectives specified in this present Act.

(3) The financial sources of the Fund: broadcasting fee, tendering fee, penalty received and compensation for failure to meet broadcasting contractual obligations, fines, licence fees and central budgetary contributions made by the state in the forms of regular and supplementary advances and also voluntary contributions.

(4) Contributions made to the Fund qualify as commitment for public benefit.

(5) The Fund is managed by the Commission. The Fund is a legal entity.

(6) The detailed rules of managing the Fund shall be determined - in agreement with the Minister of Finance - and will be published by the Commission in the Muvelodési Közlöny.

Section 78

(1) At least half-a-percent, not more than one percent of the Fund's annual revenue shall be spent on supporting non-profit oriented broadcasters and on the returnable or non-returnable support for public broadcasters. The support may be advanced for a specified time of the broadcaster's continuous activity.

(2) At least fifty percent of broadcasting fees received by the Fund shall be used for the returnable or non-returnable support for the broadcasters' Hungarian-produced public service broadcast programme items with special attention to the provisions concerning feature film production.

(3) The public service broadcasters may benefit the maximum support of one third of sums distributed under the provision of Paragraph (2).

(4) Support for public service broadcast programmes and programme items, for non-profit oriented broadcasters and also for public broadcasters shall be provided through public tendering. Tenders shall be invited by the Commission and adjudicated by the Jury assembled by the Commission.

(5) The Commission shall select the members of the Jury from personalities enjoying the respect of the public, in consideration of the conflict of interests rules applicable to the Members of the Commission. No civil servant may be a member of the Jury. Representation of those who are subject to broadcasting fee, the non-profit oriented broadcasters and also of public broadcasters in the Jury shall be provided.

(6) The Commission shall publish its decision.

TITLE TWO

Section 79

Television licence fee

(1) Everyone operating an equipment capable of receiving television programmes (hereinafter: television set) is subject to pay a television licence fee. A separate licence fee - unless stated otherwise in this present Act - is payable for every television set.

(2) The amount of licence fee is determined in the Annual State Budget Act, every year.

(3) The licence fee is determined by taking the needs of competitive and economic operation of public service broadcasters, of the maintenance of broadcasting systems and the needs of support to public service programmes into consideration.

(4) The Commission shall collect the licence fees, through an agent selected in the course of a public tender.

Section 80

(1) No licence fee is payable

- for the second and all further television sets operated by private individuals and other individuals living in the same household,
- for the second and all further television sets operated in the same building or cluster of buildings by health care and child care institutes, police organs, after-care centres, nursery schools, training and public educational institutes, public collections, students' hostels (colleges), social institutes providing personal care,
- for a rented television set,
- for a television set on trial for a period not exceeding fifteen days,
- for a television set operated by the operator of the system of a broadcaster, signal distributor or signal transmitter on site, station or in a vehicle, for the purpose of monitoring the operation or reception by the Commission or the Telecommunications General Inspectorate,
- for a television set operated by a foreign subject staying in Hungary for not longer than thirty days,
- for a television set operated by international, diplomatic and consular representation organs and their members, their foreign subject employees and the families thereof and other organs and individuals exempt from the licence fee payment obligation under the terms of international agreements,

television sets operated as monitors in closed circuit television systems.

(2) He who

deals with marketing, exhibiting television sets, shall be subject to pay television licence for one set per operational unit,

hires television sets for rental, and also the legal entity, trading company and an entity without a legal personality not falling under Paragraph (1), Sub-paragraphs b), d), g,) and h), shall be subject to pay a separate licence fee per every television set belonging to his activity.

(3) Three times the usual licence fee is payable per every television set operated in catering (hotel trade) units or other trading units or in public - with the exception of Paragraph (2) Sub-paragraph a).

Section 81

(1) The following are exempt of licence fee:

- the individual over the age of seventy, living alone,
- the couple living in their separate household in which one of the couple is over seventy the other one is over sixty years of age,
- the unemployed individual, not in receipt of an individual pension, over sixty years of age and is maintaining his close relative (Section 685. Sub-paragraph b)),
- the incapacitated, the war widow,
- individuals with seriously impaired sight or hearing, the severely handicapped, class I and class II.

(2) In the Annual State Budget Act, a flat licence fee allocation shall be provided after the beneficiaries of exemption listed under Paragraph (1) and shall be paid monthly pro rata to the Fund.

(3) The individual entitled to the exemption shall be exempt of paying the licence fee from the first day of the month following the commencement of operating the television set. The individual who had already certified his entitlement to licence fee exemption before the effective date of this present Act, will not need to certify it again.

Section 82

(1) The licence fee is due from the first day of the month following the commencement up to the last day of the operating the television set.

(2) If a subject fails to meet his licence fee obligation, he shall pay, a supplement over and above the licence fee due, of an identical amount of the licence fee.

Section 83

Within eight days after the obligation arises, the subject liable to pay the licence fee shall report, to the agent carrying out the collection of licence fees

- the fact of operating a television set,
- the activity specified in Section 80. Paragraph (2), Sub-paragraph b) or his activity defined in Paragraph (3), also the number of television sets in operation, the increase of those numbers, the extent of the licence fee.

Section 84

(1) The Central Budget shall each year supplement the Fund's revenues collected from licence fees up to the extent of fifty percent of the licence fees paid in by the operators of television sets in 1995 (base figure), if the Fund's revenue is below the specified percentage. If however, the revenue exceeds the fifty percent amount, Central Budget shall extend its subsidy by the following additional supplements:

If the revenue is an amount between

50.1%-60% of the base figure, the supplement shall be 40% of the revenue above the 50%,
60.1%-70% of the base figure, the supplement shall be 35% of the revenue above the 50%,
70.1%-80% of the base figure, the supplement shall be 30% of the revenue above the 50%,
80.1%-90% of the base figure, the supplement shall be 25% of the revenue above the 50%,
90.1%-95% of the base figure, the supplement shall be 20% of the revenue above the 50%.

(2) After the deduction of the collection costs, Hungarian Television shall be entitled to fifty percent of all licence fees collected by the Fund on any grounds, Hungarian Radio to twenty-eight percent and Duna Television to fourteen percent through the respective Public Foundation, the Commission shall be entitled to one percent, one percent shall be equally distributed amongst the Hungarian Radio Public Foundation, the Hungarian Television Public Foundation and Public Television Foundation 'Hungaria' to cover their costs, the remaining six percent shall spent on tenders invited for public service programme support.

(3) Parliament may supplement, charged to the Fund, the Commission's own budget by a sum of up to four percent of all licence fees collected by the Fund on any grounds, and the Boards of Trustees by a sum of up to three percent of all licence fees collected by the Fund. The Boards of Trustees may submit their joint proposal concerned to the Parliamentary Committee competent in Central Budget matters.

CHAPTER VI

BROADCASTING RIGHTS AND PERMITS

TITLE ONE

Section 85

General provisions

(1) Natural persons with Hungarian residence, legal entities registered in the records of the Hungarian Republic or economic associations without a legal personality may be authorised to operate as broadcasters in Hungary.

(2) The shares of a broadcaster operating in the corporate form of joint stock limited company shall be issued exclusively to identified holders.

(3) National and regional television broadcaster, radio broadcaster with a national signal area may operate in the corporate form of joint stock limited company, or companies of public benefit exclusively owned by local, regional municipalities and/or national and ethnic minority self-governments.

Section 86

(1) An enterprise authorised by the Commission in accordance with the licensing procedure laid down in this present Act or a public service broadcaster is authorised to operate as a broadcaster or a network broadcaster.

(2) The following persons shall not be authorised to broadcast:

- the President of the Republic, the Prime Minister, a Member of Parliament, a member of the Cabinet, a permanent secretary, the ombudsman of civil rights, a Judges of the Constitutional Court,
- a mayor, the Mayor of budapest, the Chairman of a County Session, a deputy of the above, an administrator or chief administrator of a local municipality
- a Judge, a Prosecutor,
- an employee or a national or regional officer of a political party,
- a member of the Supervisory Commission or the Board of Trustees of a public service broadcaster,
- the Executive Chairman, a Deputy Chairman of a public service broadcaster, or a person engaged by a public service broadcaster in a status of employment,
- a member of the Commission and also a person in direct employment of the Commission,
- a senior officer of a public administration organ, of the National bank of Hungary, of the Office of Economic Competition, of the State Privatisation and Asset Management Corporation and of the State Audit Office, an official of the Central Control Bureau or a member of the Competition Council,
- a person engaged by the Telecommunications General Inspectorate in a status of employment.

(3) The following organisations shall not be authorised to broadcast:

- a political party or the trading company established by a political party,
- a state or public administration body, except in the cases regulated under Sections 19/D and 19/E of the Constitution, if the Acts legislated for the implementation thereof provide otherwise,
- a trading company in which the Hungarian State has a qualifying holding,
- a trading company in which any of the persons listed in Paragraph (2) holds a direct or indirect equity, or has obtained rights to influence its decision-making through a special agreement or otherwise; or a person or organisation with restricted acquisition rights.

(4) He who provides telecommunication services in the signal area of the planned broadcasting shall not be granted authority to broadcast up to 31st December, 2002 except

- if he obtained his telecommunications operational licence subsequent to the conclusion of his broadcasting contract, for the purpose of transmitting his own program by means of signal transmission,
- the signal transmitter who does not provide any other telecommunication services.

(5) The broadcasting right secured by means of a broadcasting contract or a notification is limited to

- one national broadcast, or
- two regional and four local broadcasts concurrently, or
- twelve local broadcasts concurrently.

The restriction specified in Paragraph (5) does not apply to specialised broadcast, however, the advertising times allowed in Section 16, Paragraphs (1)-(3) may only be taken into account with a multiplier of 0.3 percent of the broadcasting time in excess of the number of broadcasts specified in (5).

Section 87

Neither the trading company, nor the foundation, in which the mayor general, the mayor, a local elected representative, an employee of the municipality or a close relative thereof, as defined under Section 685 Sub-paragraph b) of the Civil Code, is a member of the Commission or senior management or Supervisory Committee, or Board of Trustees, shall be authorised to broadcast over a signal area, of which at least twenty percent covers the area of the municipality.

Section 88

Only network broadcaster is authorised to broadcast over a network. The broadcasting regulations apply to network broadcasting.

Section 89

(1) The broadcaster shall keep the official documentation of his programme - including the complete recording of all the output signals broadcast - for thirty days after the publication, for sixty days in the case of a national or a regional broadcaster, and, by request, he must hand those over to the Commission, free of charges. In the case of a procedure or dispute related to the broadcasting, the documentation shall be kept for a whole year after the procedure's conclusion was reached.

(2) The broadcaster shall, under the provisions of the law or the terms of his contract, self-audit, monitor and measure his own operations, supply and file data.

(3) Unless the law provides otherwise, the costs of self-audit shall be borne by the entity subject to self-audit.

(4) The broadcaster shall supply data, in the specified form to the Commission, in particular for the examination of compliance with

- advertising restrictions and prohibitions, rules of programme item sponsoring, commissioning programme production and also of public service broadcasting,
- obligations undertaken in the broadcasting contract,
- public broadcaster obligations, and with
- the connections prescribed in Chapter Seven of this present Act.

TITLE TWO

Section 90

Fundamental content of the broadcasting contract

(1) The broadcasting contract is made between the Commission and the broadcaster selected in the tender procedure. Broadcasting contract shall be made for broadcasting through a surface antenna transmission system, or through a satellite system which falls under the disposal of (rented by) the Government, or by means of radio telecommunication devices.

(2) The broadcaster is entitled and obliged to transmit programs in line with the undertaken programme structure, for the duration and broadcasting time specified in his bid, in accordance with the broadcasting time allocation, using his own distinguishing identification signal through his own network, equipment, devices operated by himself, or with the participation of telecommunication services (transmission services). For signal transmission or signal distribution activities performed by means of own devices no telecommunications operational licence is necessary, but all other permits set forth in separate rules of the law must be obtained.

(3) As a consideration, the licensee shall pay a quarterly broadcasting fee every quarter, in advance. Upon the issue of the broadcasting licence, the fee for a half year shall be payable in advance. In the case of a late payment of the fee, the Commission is entitled to terminate the contract with a fifteen days' notice.

(4) Failure to comply with Paragraph (3) shall constitute a serious breach of the law.

(5) The default penalty chargeable in the case of breach of contract shall not exceed fifty percent of the annual broadcasting fee per one occasion.

(6) A non-profit oriented broadcaster is not under obligation to pay the broadcasting fee. Satisfaction of the prerequisites for non-profit oriented status shall be established by the Commission. The broadcaster shall submit a report on the satisfaction of the conditions at the end of every year at the time specified by the Commission.

TITLE THREE

Section 91

General terms and conditions of tender

(1) The Commission shall publish in at least two daily papers of national circulation, the contents of broadcasting contracts and the general terms and conditions of tender pertaining to their evaluation. The general terms and conditions of tender shall be defined in such manner as to ensure the freedom and diversity of information and culture, and the preservation and enrichment of universal and national culture.

(2) The general terms and conditions of tender shall define in particular:

- the material conditions of broadcasting,
- the criteria for the evaluation of material conditions,
- the consequences of breach of contract, especially penalty charges for late performance, and the conditions for suspending broadcasting for up to thirty days,
- conditions of the creation, storage, maintenance in accessible state and communication of information necessary for assessing the performance of the broadcaster's obligations .

(3) Amongst the material conditions referred to in Paragraph (2) the following shall be included in particular:

- the business plan,
- a bank statement certifying that funds to cover the operating expenses of the broadcaster for at least the first three months' operation without relying on advertising revenue is at the disposal of the broadcaster in an escrow account,
- details of the technical conditions,
- the description of programme schedule and the main properties of the programme, including the details of information and public service programmes - especially news and current affairs items - if applicable; and, in the case of national and regional television companies, an overview of the planned schedule of Hungarian-produced feature films and their proportion within the overall programme,
- the proposed broadcasting time.

(4) Material conditions are satisfied by the bidder who can certify his ability, or can offer proof of credibility to meet those conditions.

Section 92

(1) In the general terms and conditions of tender, distinctions may be made between the requirements for local, regional, national, and also satellite broadcast.

(2) The general terms and conditions of tender may specify the extent of owner's voting rights in broadcasting companies in which municipalities hold direct or indirect interest as well as the terms of appointment (application) of the head of such broadcaster.

Section 93

The draft general terms and conditions of tender and the public hearing

The Commission shall prepare the draft general terms and conditions of tender and publish in unabridged, together with its reasoning in the Muvelodési Közlöny. Within fifteen days from the publication, anybody is entitled to make an observation and communicate it to the Commission in writing.

Section 94

(1) Not less than twenty but not more than thirty days following the publication of the draft general terms and conditions of tender, the Commission shall conduct a public hearing (hereinafter: hearing). The representative of Telecommunications General Inspectorate shall participate in the hearing.

(2) An announcement shall be published about the place and time of the hearing in the Muvelodési Közlöny and two daily papers of national circulation not later than ten days prior to the hearing.

(3) At the hearing all interested parties shall be given the opportunity to expound their position, and the representatives of the Commission and of the Telecommunications General Inspectorate to answer the questions raised by interested parties.

- (4) The hearing shall be moderated by the representative of the Commission, and it will be he to determine whether the all the condition laid down by the law are met thus the hearing may be held.
- (5) Having listened to those present and taking the previously published draft agenda, if any, into consideration, the moderator of the hearing shall determine the final agenda of the hearing.
- (6) In the course of the hearing anyone may ask questions pertaining to the subject of the procedure and expound his views on issues related to the subject matter.
- (7) Those present may also address their questions - through the moderator - to another party present.
- (8) Minutes of the hearing shall be drafted within eight days and made available for inspection at the office of the Commission.
- (9) After the hearing the Commission shall reach a decision on the final general terms and conditions of tender. Its decision shall be published in the Múvelodési Közlöny within thirty days subsequent to the hearing.

TITLE FOUR

Section 95

Invitation to tender

- (1) The draft invitation to tender, the publication and public hearing thereof shall be regulated by the appropriate application of Sections 93. and 94. of this present Act.
- (2) The invitation to tender shall contain the information about the broadcasting opportunities listed in Section 52. Paragraph (4), the compulsory content of bids and with a defined rating points system of the evaluation criteria listed in Section 96. Paragraph (1) Sub-paragraphs e), f), g,) and i).
- (3) The terms of the invitation to tender may diverge from the general terms and conditions of tender only if such deviations are permitted by the law or allowed by the general terms and conditions of tender. The general terms and conditions of tender shall constitute a part of the invitation to tender.
- (4) The tender shall be invited in such manner that

- in the case of bids for national broadcasting, there is at least sixty days,
- in the case of bids for regional broadcasting, there is at least forty days,
- in the case of bids for local broadcasting, there is at least thirty days

available for preparation and submission of bids.

- (5) The Commission may set a specific proportion of the public service programme items within the programme or specify the extent of satisfying national, ethnic or other minority needs as part of the terms of the tender if, taking all the broadcasters within the given signal area into account, the requirements of the freedom of obtaining and providing information, and of the cultural diversity are not met. In order to comply with rights of national and ethnic minorities granted in separate Acts, if, within the signal area of the invited tender the needs for information in the mother tongue of national and ethnic minorities are not satisfied otherwise, the Commission may, without inviting a tender, authorise a public foundation, operating as a non-profit oriented broadcaster, in the full ownership of a minority self-government, to broadcast not less than four and not more than eight hours of broadcasting time.
- (6) The Commission may set the condition in the invitation to tender that the broadcaster provide regular news programme items at an extent over and above the requirements laid down in Section 8. Paragraph (3).
- (7) The invitation to tender shall specify the minimum of broadcasting fee, below which no broadcasting licence shall be issued - with the exception of the case of non-profit oriented broadcasters.
- (8) The invitation to tender may offer a maximum fifty percent exemption from payment of the broadcasting fee for not more than two years. The exemption however, shall not affect the obligation related to the financial cover set forth in Section 91. Paragraph (3) Sub-paragraph b).
- (9) The party submitting a bid to the invitation to tender shall pay a bid bond. The value of the bid bond shall be five percent of the minimum annual broadcasting fee disclosed in the invitation to tender. Eighty percent of the bid bond shall be set off against the broadcasting fee, in the case of a rejected bid, eighty percent of the bid bond shall be reimbursed within thirty days after the rejection.
- (10) The invitation to tender shall specify the date by which broadcasting must commence. If broadcasting is not commenced by the specified deadline for which the responsibility lies with the licensee, the licence shall expire.

Section 96

Content of the bid

(1) The bid must contain:

- particulars of the bidder:
- name,
- address (head office or site)
- company registration or Court record number.
- the name and address of a person with no criminal record who will vouch for the broadcaster's activity and bear all the responsibilities under the media law all personal responsibilities under the provisions of this present Act,
- the Memorandum and Articles of Association or other founding document of the corporation together with the possible amendments thereof, if the bidder is a trading company,
- the representation of the bidder about the extent of his direct or indirect holding in any trading company publishing or distributing Hungarian daily or weekly periodicals, broadcasting in Hungary, or bidding for a broadcasting licence in Hungary,
- basic particulars of the planned broadcast:
- type (radio, television),
- signal area,
- the signal transmission opportunity applied for,
- broadcast time of the service, time schedule of the broadcast,
- the planned supplementary and value added services,
- proposed permanent name, logo or signal of the broadcast
- the planned programme structure, average monthly broadcasting time planned for public service programme items, daily broadcast time planned for regular news programmes, average monthly broadcasting time planned for serving the needs of national and ethnic minorities,
- other information specified in the invitation to tender, including the bid for the amount of broadcasting fee offered,
- in the case of satellite broadcasting, the letter of intent issued by the operator of the satellite capacity, in which letter of intent the rental terms and fees of the channel, the frequency details and technical conditions are recorded,
- the business plan and financial plan of the broadcaster, and the bank certificate as set forth in Section 91. Paragraph (3) Sub-paragraph b).

(2) The bid of a trading company shall also contain information about the extent of any direct or indirect equity held by its owners in any trading company publishing or distributing Hungarian daily or weekly periodicals, broadcasting in Hungary, or applying for a broadcasting licence in Hungary.

(3) The bidder shall make a statement declaring that no cause for exclusion from the bid exists in his case and no such reason for exclusion would arise if any other bid in progress were accepted.

(4) Until the broadcast contract is executed, the Commission shall disclose no information contained in the bid to third parties. After the conclusion of the contract data specified in Paragraph (1), but with the exception of the information under Sub-paragraph b) shall be available to the public.

Section 97

In the case of bids specified in Section 102. Paragraph (1) Sub-paragraph d), the Commission shall publish in the Múvelodési Közlöny the name and address of the bidders, the type of signal area of the proposed broadcasting as well as the transmission facility planned to be used, within fifteen days following the expire of the bidding deadline.

Section 98

Evaluation of bids

The Commission shall examine within ninety days following the expire of the bidding deadline in the case of national broadcasters, and within sixty days in other cases, whether the bidder

- falls under the scope of restrictions provided in Sections 85., 88. or Chapter Eight,
- satisfies the formal and substantial requirements laid down in the invitation to tender,
- satisfies the material and personal conditions set forth in this present Act or in the general terms and conditions of tender laid down in accordance with this present Act.

Section 99

- (1) If restrictive provisions apply to the bidder, the Commission shall reject the bid in a statement specifying the reason and explanation of the rejection, within the time limit set forth in Section 98.
- (2) If no bid satisfies the term defined in Section 95. Paragraph (5), the Commission may evaluate the bids as if the term referred to had not been set.
- (3) If the bid fails to satisfy the requirements set forth in Section 95., the Commission may return it for completion or correction. The completion must be performed within fifteen days. Failure to meet the deadline will result in the forfeiture of bidding rights and the Commission will reject such bids consequently.
- (4) The bid shall be rejected if the bidder failed to pay the bid bond concurrently with the lodging of the bid.
- (5) The rejection of a bid pursuant to Paragraph (1) may be challenged in Court. If the plea is well founded, the Court may bind the Commission to pay the plaintiff compensation. The initiation of proceedings shall not hinder the continuation of the tender procedures.

Section 100

- (1) The Commission may enter into a contract with the selected bidder. In the case of a tender for local broadcasting where only one bidder meets the legal requirements or satisfies the general terms and conditions of tender, the Commission shall conclude the broadcasting contract.
- (2) If less than eight hours of broadcasting time per day is proposed in the bid, the Commission shall invite a tender for the remaining broadcasting time.
- (3) If more than eight hours of broadcasting time per day is proposed in the bid, the Commission may, subject to the consent of the licensee, invite a tender for the remaining broadcasting time.
- (4) The Commission shall execute the broadcasting contract subsequent to the procedure laid down in Section 101. if the broadcasting needs contained in the competing bids cannot be satisfied concurrently in the manner defined in the bid.

Section 101

- (1) If the selection is to be made from competing bids, the Commission may, within the time limit set forth in Section 98, request the competing bidders to agree upon the distribution of the time for broadcasting opportunities in question, within fifteen days following such request.
- (2) In the absence of an agreement between the bidders, the Commission shall decide on the selection from the competing bids in accordance with the evaluation criteria published at the time of the invitation to tender.
- (3) With the exception of national; broadcasting, if there is a non-profit oriented broadcaster amongst the competing bidders, the broadcasting licence shall be granted to the non-profit oriented bidder if at least two profit-oriented local broadcasts are already available to eighty percent of the residents of the signal area in question, and at least one of them is operated via signal transmission.

Section 102

Making a broadcasting contract

- (1) A broadcasting contract can be made in accordance with the provisions of this present Act
 - as a result of selection out of bids submitted to an invitation to tender, or
 - for a broadcasting opportunity, having come to being as a conclusion of planning and the approval of the Telecommunications General Inspectorate.
- (2) The object of invitation to tender referred to in Paragraph (1) Sub-paragraph a) shall refer to the broadcasting opportunities elaborated by the Telecommunications General Inspectorate and previously published in the Muvelodési Közlöny, defined in terms of signal area, frequency band and other technical specifications.
- (3) The Telecommunications General Inspectorate shall supply the data - for a consideration - necessary for the planning referred to in Paragraph (1) Sub-paragraph b).
- (4) The bid, based on Paragraph (1) Sub-paragraph a) may be made
 - up to the deadline specified in the public invitation to tender issued by the Commission, or
 - at any time for the broadcasting opportunities remaining vacant after the evaluation of bids received to the public invitation to tender referred to in Sub-paragraph a).

(5) The Commission shall invite a tender for a broadcasting opportunity arising in accordance with Paragraph (1) Sub-paragraph b). In the course of evaluation of the bids the broadcasting contract shall be made with the original applicant if he undertakes to pay the highest broadcasting fee offered in the tender.

(6) The original applicant referred to in Paragraph (1) Sub-paragraph b) may claim, from the winner of the tender, the reimbursement of his costs incurred in association with planning and with obtaining data.

TITLE FIVE

Section 103

Frequency allocation

(1) The Telecommunications General Inspectorate shall specify the frequency for broadcasting purposes for the telecommunications service provider in the possession of a broadcasting licence or a valid telecommunications contract made with this latter.

(2) The Telecommunications General Inspectorate shall conduct the frequency licensing procedure in accordance with the provisions of Act No 62 of 1993. on the Allocation of Frequencies (hereinafter: Af.).

(3) The Resolution allocating the frequency to a broadcast transmitter station shall contain the following:

- the frequency allocation fee,
- the technical conditions and specifications of operating the broadcast transmitter.

(4) The Annex to the Resolution allocating the frequency to a broadcast transmitter station shall contain the following:

- the date and reference number of the Commission's decision,
- the terms specified by the Commission in respect of the broadcasting.

Section 104

(1) The radio licence of the broadcast transmitter station shall contain

- the information listed in Section 103. Paragraph (3) Sub-paragraph b) and in Paragraph (4),
- the frequency allocation fee.

(2) The Telecommunications General Inspectorate shall issue a radio licence for the broadcast transmitter station for a term ending upon the expiry of the related broadcasting licence.

(3) The Telecommunications General Inspectorate shall compliance with the provisions of the broadcasting contract and the radio licence ex-officio, at the request of the Commission or acting upon a complaint.

(4) The Commission shall reimburse the General Inspectorate for the legitimate costs of an audit performed at the Commission's request,. If an audit performed upon such request concludes that the provisions of the broadcasting contract or the radio licence have been violated, then the costs of the audit shall be borne by the party to whom such violation can be attributed pursuant to Section 339. of the Civil Code.

TITLE SIX

Section 105

Operating conditions

(1) The broadcast transmission radio licensee shall send one copy of the radio licence to the Commission within eight days from the receipt thereof, and he shall notify the Commission of the commencement of transmission eight days prior to the date of the commencement.

(2) The broadcast transmission radio licensee shall send notification on any change in the data supplied by him within eight days after such a change occurs. The Commission may repudiate the notification if the change is violating this present Act.

Section 106

(1) The operator of the broadcast transmitter station in cooperation with the broadcaster shall transmit an identification signal continuously or at specified daily recurring intervals or provide for the broadcast verbal

announcement suitable for identification. If the station transmits the programme of several broadcasters, the identification signal or information shall be distinct and recognisable.

(2) The broadcast transmitter station may broadcast a standard signal, standard picture, still pictures, monoscope for no more than ten minutes before and after the programme, and no more than two minutes during the programme.

(3) In the event of the absence of broadcast signals due to an operational malfunction, the restriction under Paragraph (2) shall not apply for the duration of the absence of signals.

(4) During the operation of a television broadcast transmitter station the sound and picture transmitter facilities may not be operated in such a manner as to broadcast separate or unrelated programme components, except in the cases of

- measuring or test broadcasts announced in advance,
- the broadcast of a still picture or monoscope, or
- if a break-down or malfunction can only be announced on the sound or picture channel due to the fault in a device of the picture or sound channel.

TITLE SEVEN

Section 107

The term of validity of the licence

(1) The broadcast transmission licence shall be valid for a maximum ten years in the case of television and maximum seven years in the case of radio transmission, and, upon its expire, it can be renewed on a single occasion at the request of the broadcaster for another term of five years, without a tendering procedure. The application for extension shall be communicated to the Commission, fourteen months prior to the expire of the licence.

(2) In the absence of an application referred to in Paragraph (1) or if no renewal can be granted, the Commission shall issue a public invitation to tender, twelve months prior to the expire of the licence.

(3) The licence may not be renewed if the licensee violated the contract on several occasion or severely.

(4) In other respects, the licence renewal procedure shall be governed by the rules pertaining to the issuance of such a licence.

TITLE EIGHT

Section 108

Consent to networking

(1) In the event of proposed networking or if the proposed signal area or the parameters of the programme are different from those provided in the broadcasting licence, the networking shall be subject to making the necessary amendment to the broadcasting contract.

(2) The Commission shall be notified of the proposed networking jointly by the parties intending to join such a network. The notification shall contain the particulars of the network broadcaster and the permit specified in Section 19 Paragraph (4) Sub-paragraphs a) and b) of Act No 82 of 1992. on Telecommunications (hereinafter: Ta.) The networking licence application may only be rejected in the course of a telecommunications regulatory procedure if the technical specifications are not met.

(3) If the broadcaster complies with the provision of Section 98., then the Commission shall amend the broadcasting contract, and concurrently he will file the fact of connection to the network and also the network broadcaster. The broadcasting contract shall not be amended in respect of regional or local broadcasters proposing to form a network, the remaining own programme broadcast of which would thus be less than four hours a day.

(4) The public service broadcaster shall be subject to pay a broadcasting fee unless he joins the network for the sole purpose of broadcasting public service programs. Non-profit oriented broadcasters may only join a network of other non-profit oriented broadcasters.

TITLE NINE

Section 109

Changes in the broadcaster's ownership and other particulars

(1) The broadcasting licence is not transferable.

(2) The broadcaster shall notify the Commission if any change occurs in his ownership conditions or other particulars, especially if the change occurs in

- the name, address (head office) of the enterprise,
- the composition of share holding, or in the founding document, Memorandum and Articles due to amendment or modification in the case of a legal entity or of a trading company without a legal personality.

(3) The broadcaster shall make a representation to the effect that the change in his ownership conditions do not violate the provisions laid down in Chapter Eight of this present Act.

TITLE TEN

Section 110

Frequency exchange

If the broadcast transmission activity cannot be continued prior to the expire of the licence because the radio transmission permit was withdrawn pursuant to Section 12. Paragraph (1) of the Af. for reasons not attributable to the licensee, the Commission may offer broadcasting licence at another frequency with similar terms in exchange, without a tender procedure.

TITLE ELEVEN

Section 111

Amendment to the contract

The Commission may not refuse the amendment to a contract if the signal area has expanded due to the increase in the population covered by the signal dissemination system, and as a result, the local broadcaster becomes regional, the regional broadcaster becomes national, provided that the broadcaster satisfies in other respects the conditions pertaining the given new broadcaster as laid down in this present Act.

TITLE TWELVE

Section 112

Violation of the law and breach of the contract

(1) If the broadcaster fails to satisfy or violates the conditions and requirements set forth in this present Act, or in the Copyright Act or is in breach of the conditions and undertakings of the broadcasting contract or radio licence, or if a person was engaged to the effect of employment by the broadcaster at the time of the event, was later found guilty of a criminal act defined in Section 329. of the Penal Code and was given a sentence in force, then the Commission shall

- order the broadcaster to abandon the offensive conduct,
- establish the violation in a written admonition and call on the broadcaster to abandon the violation, and to refrain from such violation in the future,
- suspend the licence for broadcasting transmission licence for a period not exceeding thirty days,
- impose the penalty for non-performance specified in the contract,
- impose, upon the public service broadcaster or in response to the initiation of the Complaints Committee, a fine of the sum determined between the limits set in Section 135.
- terminates the contract with immediate effect.

(2) The written admonition and the non-performance penalty under Paragraph (1) may be combined with the other sanctions listed in Paragraph (1).

(3) The admonition and the decision on the suspension of the broadcasting licence shall be published in the Muvelodési Közlöny.

(4) The contract shall be terminated with immediate effect if

- the contract could not have been executed, and the violation still exists,
- the contract is in violation of Chapter Eight of this present Act, and the licensee has failed to remedy the violation in accordance with the relevant ruling brought by the Office of Economic Competition or by the Commission within one hundred and eighty days,
- the written admonition under Paragraph (1) Sub-paragraph b) would need to be issued for the second time since the execution of the contract.

(5) In the case of a non-profit oriented broadcaster or a public service broadcaster, the basis of non-performance penalty shall be the published broadcasting fee except if the non-profit oriented broadcaster pays a broadcasting fee.

(6) If the violation of the provisions pertaining to advertising and to sponsorship also harms the interests of the viewers or listeners, then the Commission, in addition to applying the legal remedies for breach of contract, may initiate to the General Supervision of Consumer Protection the prohibition of, setting conditions for, the continuation of the service and also the imposition of a fine.

TITLE THIRTEEN

Section 113

Broadcasting through cable network and satellite

(1) A broadcaster distributing his programme exclusively through a signal dissemination system shall notify the Commission about the information listed in Section 96. Paragraphs (1)-(3), not later than thirty days prior to the commencement of his broadcasting.

(2) If the Commission does not refuse to accept the notification within ninety days, the notification shall be deemed registered, with the condition that the issuer of notification shall be informed on the extent of the payable broadcasting fee, within this deadline.

(3) Acceptance of the notification shall be refused if the applicant could otherwise not be a licensee under a broadcasting contract.

(4) A broadcaster shall be deleted from the register if

- there would be cause for the refusal of registration in the first place,
- the operator has given notice to the effect of the termination of his dissemination of broadcast signals, or pursued such activities for no more than sixty hours altogether during a period of twelve months,
- he repeatedly and seriously violated his obligations set out in Chapter Two

(5) This section shall apply also to cases when broadcasting is performed through a satellite station not under the Government's disposal.

TITLE FOURTEEN

Section 114

Temporary broadcasting

(1) Upon request a temporary broadcasting contract shall be concluded for a period not exceeding thirty days without the tendering procedure for the use of broadcasting opportunities

- which are included in the frequency schedule published by the Commission and for which no bids were submitted, or
- for which another party has obtained broadcasting licence but the licensee fails to commence broadcasting within sixty days following the end of the temporary broadcast.

(2) In the case of a broadcasting opportunity not listed in the published frequency schedule the applicant shall certify by a document issued by the Telecommunications General Inspectorate to the effect that broadcasting may be continued without interference with others' activity and without violating international prescriptions. The certificate shall contain the technical specifications defined in Section 52. Paragraph (4). In such cases the Commission shall issue the broadcasting licence according to the following procedure:

the Commission shall publish the invitation to tender together with the technical specifications defined in Section 52. Paragraph (4), within eight days after the submission of application;

- the bid shall be submitted within eight days after the publication of the tender;
- the bid shall contain: the name and address of the bidder,
- the Articles of Association of the legal entity or trading corporation without a legal personality,
- the proposed broadcasting schedule in weekly or monthly breakdown,
- the programme schedule,
- the name and address of the person responsible for the programme;

if a single applicant submits a bid for the broadcasting opportunity and it is found that his bid satisfies the requirements of this present Act, the Commission shall conclude the contract with that bidder.

if more than one applicant submit bids for the broadcasting opportunity and all the bids satisfy the requirements of this present Act, then the bidders, on the instruction of the Commission, may agree amongst themselves on the distribution of the broadcasting time. If such an agreement is reached, the Commission shall conclude the broadcasting contract with all the bidders under identical terms. If no agreement is reached within three days after the instruction is given, the Commission shall decide on the allocation of the licence. In the case of an objection against the decision, the Commission shall conduct the tender procedure according to the provisions of Title Three.

(3) A temporary broadcasting contract with the same enterprise may be made once every year, or three times within an area under the same public administration, in such a manner that between the term periods of the temporary broadcasting contracts at least one month shall elapse. The broadcaster authorised by a temporary licence shall not join a network of other broadcasters.

(4) Based on a temporary broadcasting contract, the non-profit oriented broadcaster does not have to pay the broadcasting fee. The broadcasting fee shall be set by the Commission.

(5) For the purposes of this Section the provisions of Chapter Eight of this present Act shall not apply.

(6) The temporary broadcasting period identified in Paragraph (1) may not be extended.

CHAPTER VII

BROADCASTING AND PROGRAMME DISTRIBUTION THROUGH A SIGNAL DISSEMINATION SYSTEM

Section 115

(1) Broadcasting through a cable dissemination network or programme distribution radio-telecommunication transmission may also be performed, unless it is against the law or an international agreement.

(2) Broadcasting described in Paragraph (1) may be commenced after registration in the records instituted for the purpose.

(3) The programme distributor already operating at the time of this present Act coming into force, shall notify the Commission within thirty days after the formation thereof, and the new programme distributor wishing to commence operation, thirty days prior to the proposed programme dissemination commencement date shall notify the Commission of:

- the name and address (registered head office) of the programme distributor, his company registration number or administration reference,
- the name and address of a person with no criminal record who will vouch for the programme distributor's activity and bear all the responsibilities under the media law all personal responsibilities under the provisions of this present Act,
- the Memorandum and Articles of Association or other founding document of the programme distribution enterprise together with the possible amendments thereof,
- the representation of the programme distributor or the enterprise authorised by law to operate the system (hereinafter collectively: operator) about the extent of his direct or indirect holding in any enterprise engaged in publishing or distributing Hungarian daily or weekly periodicals, broadcasting in Hungary, or bidding for a broadcasting licence in Hungary,
- the proposed signal area, of the programme distribution
- the number of households proposed to be connected to the programme distribution.

(4) The signal area of a programme dissemination system shall not exceed one third of the highest size of regional broadcasting signal area set by this present Act.

(5) Notification does not grant exemption from obtaining permits or authorisation required in other statutes of law.

(6) In the case of a change in the data supplied in the notification within thirty days in respect of information under Paragraph (3) Sub-paragraphs a)-e), and by the 1st February in the year following the current year, those in Sub-paragraph f).

(7) An operator shall be deleted from the register if

- he has notified the discontinuation of dissemination,
- he has pursued such activities for sixty days or less within a period of twelve months,
- he has failed to satisfy his obligations specified in Paragraphs (5)-(6),
- he has distributed programmes without notification,
- he has failed to comply with the Commission's order based on international agreement to suspend programme distribution.

(8) The technical standards of programme dissemination systems shall be regulated by the Minister of Transport, Telecommunications and Water Management in his separate Decree. The regulation shall be elaborated in such a manner that the new systems as well as the development of the existing systems should meet the requirements of modern data transmission. From the effective date of the Decree in the case of installing programme dissemination systems, and from 1st January, 2003 in the case of converting existing systems, the regulation shall be complied with. The requirements shall also be asserted at the time of establishing residential connecting points in already built systems the trunk line of which do not satisfy the requirements of the Decree, from 1st January, 2003.

Section 116

(1) The operator, shall be entitled to disseminate on the basis of registration any Hungarian or foreign broadcast unless this violates a statute of law or international convention.

(2) For the purpose of disseminating Hungarian or foreign broadcast, the operator shall notify the Commission thirty days prior to the commencement of the signal dissemination of:

- the permanent designation of the Hungarian or foreign broadcast to be disseminated,
- a contract made with the broadcaster, or other evidence to prove his programme distribution entitlement and/or the data certifying that the broadcaster has taken the necessary measures to protect copyright and collateral rights,
- the technical specifications of the distribution of individual broadcasts within the dissemination system,
- the placement of individual broadcasts in different tariff packages.

(3) By 1st February, the operator shall notify the number of households connected to the individual broadcasts up to 31st December, last year.

(4) If the Commission does not refuse acceptance of the notification within sixty days of its receipt, the notification shall be deemed registered.

(5) The Commission may refuse registration if

the proposed distribution of broadcasts violates this present Act, or is in conflict with the obligations of the Hungarian Republic,

if the data specified in Paragraph (2) are not available in spite of a request made for the completion of the file.

(6) The Commission may disclose information on its records to third parties in compliance with Act No 63 of 1992 on the protection of personal information and transparency of public information. The Commission may disclose personal information for statistical purposes in a format unsuitable for the identification of the broadcaster or the operator of the signal dissemination network. At the request of a broadcaster of the disseminated broadcasts the Commission shall disclose the data under Paragraph (2) concerning the broadcaster.

Section 117

(1) From 1st July, 1996 the operator shall disseminate through his system all the programmes of the public service broadcaster, provided that the signal area thereof covers the given head station. These programmes shall be disseminated as basic service, for these broadcasts no extra charges may be made to the subscribers.

(2) Dissemination shall be provided free of charges to public service broadcasts and nor can the public service broadcaster claim a consideration for the dissemination from the operator. In respect of dissemination specified in (1), the operator shall be exempt from the payment obligations determined in Section 50/G. Paragraph (1) of Act 3 of 1969. on Copyrights and Performing Rights (hereinafter: Copyright Act).

(3) The contract between the broadcaster and the operator may not contain such a provision that excludes the operator's right to enter into a contract with another broadcaster.

(4) The operator may enter into an agreement with any broadcaster, in which agreement the operator undertakes that he will collect fees for the benefit of the broadcaster from the subscribers of the dissemination system.

Section 118

(1) A broadcast that violates the provisions of Section 3. Paragraphs (2)-(3) and of Section 5. Paragraph (4) must not be disseminated.

(2) In the case of broadcasts exclusively operating through dissemination systems and specialised broadcasts transmitted through a satellite telecommunication system the number of broadcasting of the same broadcaster in the dissemination system of the operator shall not exceed twenty percent of the disseminated broadcasts.

(3) The programme distributor shall be under obligation to enter into a contract with the local public broadcaster or the local non-profit oriented broadcaster in response to the offer made by them, for at least ten percent of his capacity but not more than with three broadcasters.

(4) The programme distributor shall be under obligation to enter into a contract with the Hungarian regional or national broadcaster, in response to the contractual offer made by them, for a further ten percent of his capacity but not more than with three broadcasters.

(5) The obligation to enter into a contract specified in Paragraphs (3)-(4) only apply in respect of broadcaster whose daily broadcasting time reaches four hours.

(6) If the contract pursuant to Paragraphs (3) and (4) is not concluded within thirty days after the offer is made, the broadcaster is entitled to address the matter to the Commission for the creation of the contract. The Commission shall determine the fees according to the market conditions, irrespective of Section 117. Paragraph (4) and Section 119. Paragraph (4).

(7) In respect of satisfying the obligation defined in Paragraphs (3) and (4), own broadcast may not be taken into account.

Section 119

(1) The operator shall not be considered a broadcaster if it performs the dissemination of the broadcast concurrently and without altering the programme provided that it was registered as a cable signal disseminator on the basis of his notification addresses to the Commission.

(2) In the course of the concurrent and unaltered dissemination of programmes of foreign broadcasters, the provision of own advertisements, taking the advertising provisions of this present Act into consideration, during the time allocated for advertising in the programme shall not constitute broadcasting.

(3) The programme distributor shall handle the fees payable for the broadcaster's services and the fees charged for the operation of the system separately.

(4) The owner or operator of the cable signal dissemination system may only charge the subscribers for a fee in respect of operating his system. There is a case of exception from this; the broadcaster may pay for the telecommunication services on condition that the operator does not alter the subscription fee for the broadcast package.

(5) The operator of a radio telecommunication programme distributor may ask the broadcaster - except the public service broadcaster - a consideration for his telecommunication activity, whilst he may collect telecommunication service charges from the system's subscribers.

Section 120

(1) The operator may establish different broadcast channels to be reflected in the subscription fee rates.

(2) The operator shall be under obligation to account his advertising revenue separately and to send a report to the Commission by 1st March every year in monthly breakdown. The Commission is entitled to inspect the records in the course of its audit.

Section 121

- (1) The non-cable based signal dissemination qualifying as a limited signal distribution system and falling under the national frequency allocation rules shall be governed by the provisions pertaining to broadcast transmission.
- (2) Broadcasting through non-limited, non-cable based signal dissemination systems shall be governed by the rules pertaining to broadcasting through cable signal dissemination systems. For the purposes of this present Act, systems originally established for signal distribution but also performing signal dissemination via direct reception shall be governed by the rules pertaining to cable based signal dissemination systems.
- (3) A separate Act of Parliament shall be drafted to determine the detailed rules of signal dissemination.

CHAPTER VIII

OWNERSHIP RULES

Section 122

- (1) Natural persons of Hungarian citizenship and with a permanent residence in Hungary or legal entities with a Hungarian Registered Office shall hold a minimum of twenty-six percent of the votes in a limited company licensed for national broadcasting.
- (2) No owner shall hold more than forty-nine percent of the votes in a company limited by shares or a public service corporation engaged in surface antenna transmitted television broadcasting not connected to the national network.
- (3) For the purposes of Paragraph (2) direct and indirect holding of shares shall be calculated in aggregate.
- (4) The majority of the members of the Commission of Directors of limited companies engaged in national broadcasting, the members of the general management of public service corporations shall be Hungarian citizens with a permanent residence in Hungary.
- (5) Voting share of limited companies engaged in national or regional broadcasting shall not be owned by foundations.

Section 123

- (1) With the exception of the specialised broadcaster, the licensee of national broadcasting or possessor of direct or indirect equity therein shall not acquire any qualifying holding in another enterprise engaged in broadcasting.
- (2) The same enterprise may acquire qualifying holding in a licensed organisation within the limits set in Section 86. Paragraph (5).

Section 124

- (1) With the exceptions specified in Paragraph (2), regional or local broadcasters may not acquire direct or indirect holding in any other organisation engaged in regional or local broadcasting in his signal area.
- (2) The restriction in Paragraph (1) shall not apply if

- the overlap of the signal areas of the two broadcasters does not exceed twenty percent, or
- some unallocated broadcasting time remains after the conclusion of broadcasting tender, and following a new invitation to tender a contract is entered into with the broadcaster referred to in Paragraph (1) in respect of the remaining broadcasting time, provided that the broadcasting time thus acquired is eighty percent different from his existing broadcasting time, and another of such periods exceeds four hours.

- (3) In the case of regional or local broadcasting through cable signal distribution networks, the broadcaster can use, within the system used by him, for his own broadcasting at least one channel or a number of channels not exceeding one third of the channels available for dissemination of Hungarian broadcasting.

Section 125

- (1) Those possessing qualifying holdings, publishing or founder's rights in a daily paper of national circulation may not acquire qualifying holdings in a national broadcaster or programme distributor broadcasting through non-network based transmission and vice versa.

(2) Those possessing qualifying holdings, publishing or founder's rights in a weekly periodical of national circulation may not acquire qualifying holdings in a national broadcaster or programme distributor broadcasting through non-network based transmission and vice versa.

(3) Those possessing qualifying holdings, publishing or founder's rights in a daily paper of not national circulation the daily circulation of which reaches ten thousand copies, may not acquire qualifying holdings in a broadcaster or programme distributor broadcasting through non-network based transmission the signal area of which overlaps to a degree of eighty percent of the distribution area of the publication, and vice versa.

(4) Smaller than majority holding may be acquired by qualifying holders, publishers or founders specified in Paragraph (3) if there is another existing local or regional broadcaster or programme distributor covering at least seventy percent of the signal area concerned.

Section 126

(1) The holder of a qualifying holding in a programme dissemination enterprise, may not acquire a qualifying holding in another programme dissemination enterprise.

(2) The holder of a qualifying holding in a press distribution enterprise, may not acquire a qualifying holding in a broadcasting or programme dissemination enterprise.

Section 127

(1) A non-profit oriented broadcaster may obtain another licence exclusively in the capacity of non-profit broadcaster.

(2) The operator broadcasting his own programme shall not possess qualifying holdings in another enterprise engaged in broadcasting or shall not obtain broadcasting licence outside his own system.

(3) No organisational merger or acquisition of a qualifying holding, as defined by the Act on the Prohibition of Unfair Market Practices, shall be permitted if it violates the provisions of this present Act.

CHAPTER IX

TENDERING CERTAIN NATIONAL BROADCASTING RIGHTS

Section 128

(1) At the time of this present Act coming into effect, Section 52. Paragraph (2) and (6) cannot be applied to the invitation to tender bids for the broadcasting rights known as MTV2, Danubius Rádió and a third national surface antenna transmitted television channel, in other respects the content of Chapter Six shall apply with the differences specified in Sections 129-131.

(2) The Government shall immediately commence

- the establishment of the frequency set designed for broadcasting the third national surface transmitted television station in order to make the frequency set suitable together with the investments to be made later for the development of a signal area covering at least seventy percent of the country's population, by the eleventh month following the coming into effect of this present Act. The extension of the signal area to cover at least eighty-five percent of the population shall be provided within one year after the commencement of broadcasting. The preparation for designing and elaborating the frequency set must be completed by the time the tender specified in Section 129. is invited.
- to provide the Hungarian Radio two slots within the 87.5-108.0 MHz frequency band, suitable for broadcasting two national stations, following the time scheduling of the first sentence in Sub-paragraph a) but in such a manner that in respect of the first station the signal area shall cover at least eighty percent of the population, in respect of the second station, fifty percent of the population shall be covered by the signal area.

Section 129

(1) The Commission shall, within one hundred and twenty days following the coming into effect of this present Act, publish an invitation to tender bids for the broadcasting rights over the station formerly known as MTV2 prior to the effect of this present Act, and over the third national surface transmitted television station in such a manner that broadcasting on this channel must commence not later than one month after broadcast on the second channel of the Hungarian Television starts.

(2) Bids shall be submitted within ninety days following the invitation to tender. The Commission shall evaluate the bids within sixty days following the expire of the tendering deadline, according to the provisions of Sections 98.-

101. as appropriate. In the case of a need for additions to complete the bids, the evaluation deadline shall be extended by fifteen days.

(3) In the invitation to tender the Commission shall determine any condition additional to the general terms and conditions in Section 91. Paragraphs (1)-(3) that the bidders must satisfy.

(4) The invitation to tender for the broadcasting rights over the station formerly known as MTV2 prior to the effect of this present Act shall contain:

- the broadcaster is under obligation to provide public service programme items in not less than twenty-five percent of the daily broadcasting time. The public service programme items must be placed in the programme schedule that their proportion shall be not less than twenty percent of the weekly average prime-time broadcasting,
- the broadcaster shall compose at least thirty-five percent of his annual broadcasting time - net of feature films, advertising, news, live sports coverage, game shows and quiz programs - of Hungarian-produced programme items,
- the broadcaster shall compose at least thirty percent of his average monthly broadcasting time - net of feature films, advertising, news, live sports coverage, game shows and quiz programs - of Hungarian-produced programme items,
- the broadcaster shall compose at least nine percent, starting from 1st January, 1999 at least fourteen percent of his annual broadcasting time - net without advertising, and live sports coverage - of Hungarian produced, but - with the exception of feature films - not internally produced programme items.
- the proportion specified in Sub-paragraph b) shall apply to prime time broadcasting too.

(5) The scope of terms under Paragraph (4) applicable to the broadcasting rights over the third national surface antenna transmitted television channel shall be determined by the Commission in the invitation to tender. There will be less strict terms within, than the requirements under Paragraph (4).

Section 130

(1) The Commission, also in consideration of Section 132. Paragraph (2), shall invite a tender for the broadcasting rights over the radio station formerly known as Danubius Rádió prior to the effect of this present Act, and further at least one national radio broadcast right within the 87.5-108.0 MHz frequency band. The frequency set of the broadcast known as Danubius Rádió, shall be determined by the Commission in the invitation to tender in such a manner that broadcasting on this channel may only commence after Hungarian Radio started at least one national broadcast within the 87.5-108.0 MHz frequency band. With the broadcasting rights, the right of using the name shall also be transferred.

(2) Bids shall be submitted within ninety days following the invitation to tender. The Commission shall evaluate the bids within sixty days following the expire of the tendering deadline, according to the provisions of Sections 98.-101. as appropriate. In the case of a need for additions to complete the bids, the evaluation deadline shall be extended by fifteen days.

Section 131

(1) The broadcasting fee for the broadcasting rights obtained according to this Chapter shall consist of two parts: a lump sum of not less than thirty percent the total of the broadcasting fee evolved in the course of the tender, and annual instalments due from the fourth year.

(2) Hungarian Television Public Foundation shall be entitled to seventy percent, Public Television Foundation 'Hungaria' shall be entitled to thirty percent of the broadcasting fee received for MTV2. The broadcasting fee received for Danubius Rádió rights shall be given to the Hungarian Radio Public Foundation.

(3) The Broadcasting Fund shall be entitled to the broadcasting fee received for the broadcasting rights over the third national surface transmitted television channel in such a manner that the fee shall be used for the development of signal transmission and of the cable networks used for signal dissemination. These amounts shall not used for any other purpose.

Section 132

(1) Following the tender, Hungarian Radio shall broadcast three programmes in order to perform its tasks laid down in this present Act, one out of which may be transmitted within the 526.5-1606.5 kHz frequency band and two within the 87.5-108.0 MHz frequency band.

(2) The national and regional radio broadcasting opportunities shall be developed by the Commission in such a manner that Hungarian Radio and other radio broadcasters shall have a fair chance to obtain broadcasting opportunities, taking the transmission standards into consideration.

(3) Following the tender, Hungarian Television shall provide a national surface antenna transmitted programme - the frequency allocation and broadcasting conditions of which are identical to those of the channel known as MTV1 prior to the coming into effect of this present Act - and a second programme broadcast over a national signal area.

(4) Having studied the technical, legal and economic conditions, the Commission shall decide on the manner of implementing the broadcast service referred to as second programme in Paragraph (3), taking the opinion of the Board of Trustees into consideration in such a manner that broadcasting shall commence within eleven months from the promulgation of this present Act, and MTV2 shall use the present and new broadcasting facility concurrently for one month. Hungarian Television shall broadcast two programmes during the entire period of transition.

(5) Duna Television shall broadcast public service programme through satellite transmission.

Section 133

(1) The broadcasting rights of public service broadcasters, granted under this present Act, shall be in force for seven years in respect of radio broadcasters and ten years in respect of television broadcasters. On the expiry of the term, the rights may be extended for the same term, several times, provided that the international restrictions on broadcasting opportunities, the requirements of the National Allocation Chart of Frequency Bands, or the coverage obligations remain unaltered. In order to replace un-extendable rights, other broadcasting rights shall be provided, appropriate to meeting the obligations of a public service broadcaster.

(2) In respect of the national surface antenna transmission television and radio broadcast rights, subsequent to the expiry of the rights, the Commission - taking the views of the Board of Trustees into consideration - shall review the system of national broadcasting and shall make a decision whether to maintain the former rights of public service broadcasters or alter them.

(3) The broadcasting opportunities - identified by frequency and transmission specifications - necessary for the fulfilment of the broadcasting obligations of public service broadcasters shall be determined by the Commission after preliminary reconciliation, applying the appropriate rules of transparency for decision making by votes.

(4) The Commission shall conduct the preliminary reconciliation referred to in Paragraphs (2) and (3) with the representatives of the Telecommunications General Inspectorate, the public service broadcaster and also of the telecommunication service provider performing the transmission of the programmes.

(5) Paragraphs (2) and (3) do not apply to the broadcasting opportunity for cross-border radio broadcasts of public service broadcasters. For the purpose of such broadcasting, the right for using a frequency shall be provided by the Telecommunications General Inspectorate within the framework of international procedures.

Section 134

(1) The public service broadcaster may only apply for a broadcasting opportunity prior to 1st January, 2000 in a procedure defined in Chapter Six, additional to his broadcasting entitlement granted under this present Act, if he is unable to fulfil his task specified in Section 23. Paragraph (4) Sub-paragraph c) otherwise.

(2) Section 122. Paragraphs (1)-(3) and (5) do not apply to public service broadcasters, and the restriction under Section 123. Paragraph (1) shall only prevail if the public broadcaster obtains broadcasting rights in a tender too.

(3) The public service broadcaster may also broadcast local, regional programmes.

CHAPTER X

OTHER PROVISIONS

TITLE ONE

Section 135

Fines

In the case of unauthorised broadcasting, or programme distribution performed unregistered or different from the registration conditions, the Commission can impose a fine double the amount of revenue gained from the unauthorised activity or, if this cannot be established, a fine between 10.000 and 1.000.000 Hungarian Forints which is to be paid into the Fund.

TITLE TWO

Section 136

The application of public administration proceeding rules

- (1) According to Title Twelve of Chapter Six, Chapter Seven and Section 135. the Commission is acting concerning public administration issues, in case of proceedings the Act No 4 of 1957 about the general provisions of public administration proceedings shall apply with regard to the differences contained in this present paragraph.
- (2) Through public administration no appeals can be filed against the decisions of the Commission.
- (3) The revision of the Commission's decision can be requested from the Court. The Court will act in accordance with the rules contained in Section 20. of the Ccp. The decision of the Commission can be overruled by the Court.

TITLE THREE

Section 137

Extraordinary situations

In case of an extraordinary situation or a state of an emergency, danger or the unexpected invasion of Hungary by foreign armed forces (groups), the defence of Hungarian territory by the air force and air defence artillery of the Hungarian Army, the Parliament, the National Defence Council, the President of the Republic and the government as well as the other persons and institutions, designated in the law based on Articles 19/D and 19/E as well as on the 3. Paragraph of Article 35. of the Constitution, can compel the broadcaster - to an extent necessary under the circumstances - to the free broadcasting of public announcements concerning the existing situation in the form and at a time decided by the above authorities, or they can forbid publication activities. In case of publication the source has to be identified unambiguously.

TITLE FOUR

Section 138

Broadcasting from Parliament

- (1) For the broadcasting of the whole of the sessions of the Parliament, the public Parliament and committee hearings related to appointments and nominations and - according to necessity - for the broadcasting of the sessions of parliamentary committees a closed circuit television network is to be established within one year of the validation of this present Act.
- (2) The outgoing signal from the closed-circuit television system has to be made accessible to all broadcasters. The costs of joining the system are to be carried by the broadcaster.
- (3) Paragraphs (1) and (2) do not concern that right of any broadcaster to record or on-line broadcast a programme from a designated location of the Parliament Building.
- (4) A recorded, publicly accessible copy of the outgoing signal shall be deposited in the Parliament Library as well as in the National Széchenyi Library. The Parliament Library ensures the free survey of the recorded material and, on the payment of all incurred costs, also prepares a copy thereof to be used freely. One copy of the recording is also to be deposited in the (voice material) archives of the Hungarian Television and the Hungarian Radio.
- (5) The broadcasting system ensuring the impartial broadcasting of parliamentary activities is to be established within one year of the validation of this present Act as an appendix of the Parliament's rules of conduct.
- (6) According to this Act the national broadcaster engaged exclusively in the full and continuous presentation of the Parliament's activities or in the related analyses is to be considered as a public broadcaster.
- (7) The Chairmen of the public service broadcasters provide for the continuous broadcasting order of parliamentary sessions on the authority provided Point a/ of Section 71.
- (8) Until the transformation of public service broadcasters into share companies is completed the present system of the broadcasting of parliamentary sessions effective at the validation of this Act will not change.

CHAPTER XI

CLOSING PROVISIONS

TITLE ONE

Section 139

The effect of the Act

(1) Section 142. of this Act will come into effect when it is promulgated, the other provisions of this present Act - with the exception of paragraphs (2)-(4) - will come into power on the 1st day of the month subsequent to promulgation.

(2) The (1) paragraph of Section 75., the Articles 79-84 and Section 162. will come into effect on the 1st of January, 1997.

(3) Point p/ of Section 161. will come into effect upon the establishment of the Hungarian Radio and Hungarian television share companies.

(4) The Section 151. will come into effect upon the validation of the new copyright Act but at the last on the 1st of January, 1997.

TITLE TWO

Section 140

The forming of the Commission and the public foundations

(1) Within 45 days of the promulgation of this present Act

- the members of the Commission shall be elected and
- the members of the presidium of the Board of Trustees need to be elected

(2) The notice according to the (2) paragraph of Section 57. of this Act needs to be published for the first time within 60 days of the validation of this present Act. The deadline set for applications is 20 days from the time of publication. The performance of administrative and control duties related to registration will be carried out by the government till the establishment of the official organs of the Commission. The draw prescribed in accordance with the (5) paragraph of Section 57. needs to be conducted for the first time within 20 days after the expiration of the deadline set for the application for registration.

(3) Within 30 days of their elections the presidiums of the Commissions of trustees will announce a public competition for the filling of presidential positions of the public service broadcasters. The deadline for the submission of applications is 30 days and the applications have to be evaluated in 30 days.

(4) At the election of the presidiums of the Board of Trustees, the Parliament accepts the public foundations' Memorandum of Association which will come into being through a registration in court records. Throughout the registration proceedings the Parliament will be represented by its own General secretary.

(5) With the election of the presidium of the new Board of Trustees, the commission of the present Board of Trustees of the Public Television Foundation will cease to exist. The new Board of Trustees supplemented by the delegated members will, within 60 days of its establishment, modify the Articles of Association of Duna Televízió Rt. in accordance with the provisions of this present Act.

(6) The list of the members of the Commission, the presidiums of the Commissions of trustees and that of its delegated members is to be published in the Magyar Közlöny.

TITLE THREE

Section 141

The establishment of the Hungarian Radio Broadcast Corporation and the Hungarian Television Broadcast Corporation

(1) Within 6 month of the validation of this Act the government will conduct the property assessment of the Hungarian Radio and Hungarian Television on the basis of an inventory. The government will transfer these properties into the possession of the Hungarian Radio Public Foundation and the Hungarian Television Public Foundation respectively on the day with the effect of which the share companies are established by the public

foundations. The share companies will come into being with a retrospective effect to the date laid down in the Articles of Association through the registration in the Registrar of Companies.

(2) The Hungarian Radio share company is the general legal successor of the Hungarian Radio budgetary organisation whereas the Hungarian Television share company is the general legal successor of the Hungarian Television budgetary organisation. With regard to this the (2) paragraph of Article 251. of the Tc. does not have to be considered in the course of their establishment process.

(3) The property acquisition of the public foundations along with the foundation of corporations by thereof are tax exempt and free from all fee payment duties.

(4) The bank accounts of the Hungarian Radio and Hungarian Television are to be maintained further on the basis of legal continuity and the ownership rights of the concerned state properties - while registering the intermediate property acquisition of the public foundations - are to be transferred over officially to the concerned share company.

(5) The public service broadcasters are exempt from corporate tax and are granted a personal exemption from all fee payment duties.

(6) The Hungarian Radio and Hungarian television as budgetary organisations will cease to exist on the day according to paragraph (1).

(7) With regard to the content of paragraph (2) the government is to initiate the amendment of the budgetary Act of 1996 in order to ensure that the continuous budgetary subsidisation of the Hungarian Radio and Hungarian Television in 1996 will not suffer a hitch due to their transformation into share companies. In the course of this the subsidisation of the Duna Televízió is to be increased, the possible source of which is the redistribution of the revenue generated from television subscription fees. In the budget amendment Bill - to the debit of the revenue from subscription fees - the funds necessary for the operations of the Commission as well as the Board of Trustees of the public foundations have to be provided for.

(8) Four fifth of the attending members of the parliamentary committee responsible for budgetary issues can propose the appointment of a parliamentary commissioner to the Hungarian Radio or Hungarian television for the transformation period. The duty of the parliamentary commissioner is to countersign the legal statements comprised in Section 142. of the Act and have been made by the President (Vice President) of the Hungarian Radio or Hungarian Television. Without such a countersignature the legal statement is invalid.

(9) For the lack of a parliamentary commissioner according to paragraph (8) the presidiums of the Commissions of trustees of the Hungarian Radio Public Foundation and the Hungarian Television Public Foundation will exercise their authorities, according to the points c/ or da/-dc/ of the (2) paragraph of Section 66. of the Act, from the time of formation and thus the presidents of the Hungarian Radio and Hungarian Television will act in accordance with the duties defined in points g/ and h/ of Section 71. of this present Act.

Section 142

With the inauguration of the new presidents elected according to this present Act the commission of the present presidents and vice-presidents of the Hungarian Radio and Hungarian Television as well as that of the members of the Commission of directors and the general manager of the Duna Televízió Rt. will cease to exist. After the promulgation of the Act the present presidents (the Commission of directors and the general manager of the Duna Televízió Rt.) are entitled to take measurements necessary for maintaining operations. However they do not have the right to alienate property or to sign contracts with a validity longer than 1 year, concerning an amount higher than 5% of the expense balance of the institution's annual financial plan or ceding the exclusive utilisation of advertising rights, with the exception of those belonging to regularly performed and proper management activities. Furthermore they do not have the right to perform the scope of staff reduction established in Articles 22-23. of the Act No 4 of 1991 and to amend the effective organisational provisions and rules of conduct. on their own authority.

Section 143

(1) With the foundation of the Hungarian Radio Rt. and the Hungarian Television Rt. the public employee status of the employees of the Hungarian Radio and Hungarian Television will turn into regular employment. The time spent by the employees at the Hungarian Radio and Hungarian Television as public service employees is to be considered as it had been spent with the share company. Simultaneously with the transformation of legal conditions those higher management authorities which have been granted prior to the transformation of legal conditions are to be considered withdrawn according to (5) paragraph of Article 23. of the Act No 33 of 1992 about the legal status of public employees (in the following Clp.).

(2) In contrast to paragraph (1) the length of employment at the Hungarian Radio share company and Hungarian Television share company, with regard to term of notice and severance payment, is to be calculated from the date of the transformation of public servant statutes into regular employment., The term of notice and severance payment calculated on the basis of the length of the previous public service employment and in accordance with

the regulations of the Civil Legal Procedures Act (hereinafter: Clp.) relevant at the time of the transformation of the legal employment status are to be added to the scope of the term of notice and severance payment.

(3) To the claim originating from the public service employment and to the claim incurred before the change in legal status according to paragraph (1) those provisions of the Clp. shall apply which are relevant at the arising of the claim and to the order of assertion of the claim the provisions of Act No 22 of 1992 about the Labour Code shall apply. The statement (measurement) or agreement related to the termination of public service employment is to be evaluated according to the regulations of the Clp. relevant at the time the statement has been made or the conclusion of the agreement.

(4) With regard to the transformation of the public service employment status of the employees of the Hungarian Radio and Hungarian Television into a regular employment status the regulations of Section 25/A. of the Clp. are not to be applied.

(5) Disciplinary procedures in process or labour lawsuits related to the disciplinary resolution of the employer - with the exception defined in paragraph (6) - are to be discontinued.

(6) If the labour lawsuit concerns dismissal on disciplinary grounds then at the assessment of the action the regulations of extraordinary termination shall be applied accordingly.

(7) The execution of disciplinary actions with a definite term is to be stopped.

(8) The Public Service Employment Council of the Hungarian Radio and that of the Hungarian Television will operate further as a Works Council.

Section 144

(1) According to the general provisions contained in Section II of this Act, the broadcasting activity carried out by the Hungarian Radio at the validation of this Act can be continued until the party who, in the course of the tendering process defined by law, has acquired broadcasting rights for the frequency (used for broadcasting prior to the validation of the law by the Hungarian Radio), starts broadcasting.

(2) With regard to the Hungarian Radio, Hungarian Television and Duna Television the regulations referring to the restriction of advertising periods and to the financial support of programmes cannot be applied till the 31st of December, 1996.

(3) The effective Organisational Regulations and Rules of Conduct of the Hungarian Radio and Hungarian Television are to be applied till the validation of the Organisational Regulations, Rules of Conduct and public service broadcasting regulations accepted by this present Act.

Section 145

From the three 66,0-73,0 MHz frequency ranges used for the broadcasting of the programmes of the Hungarian Radio at the validation of this present Act, two can be used for a maximum of three years as from the validation of the Act and the third 66,0-73,0 frequency range can be used for 10 years. Within this time limit the Commission can deprive the Hungarian Radio of the title to the usage of two 66,0-73,0 MHz frequency ranges if in the 87,5-108,0 frequency range two broadcasting activities will be realised.

TITLE FOUR

Section 146

Miscellaneous provisions

(1) The recipients of studio licences issued before the validation of the Act and with a specific date of expire can file their request for the transformation of their license into a broadcasting contract with the Commission till the 31st of March, 1996. With the neglect of this right-losing deadline the license shall lose its validity. The Commission cannot conclude a contract with the applicant if the studio does not broadcast according to the provisions of the studio licence or does not broadcast at all. The studio license loses effect with the relevant decision of the Commission.

(2) The Commission concludes the contract with the applicant for the duration of the studio licence and for the therein established signal area included in the original licence - with the establishment of the broadcasting fee - if the applicant operates in accordance with the provisions of the studio licence.

(3) For the frequency (transmission period) vacated due to the loss of studio licence the Commission shall invite a tender unless the broadcaster does not consent to it on the basis of paragraph (3) of Section 100.

(4) A tender must be invited for the lawful use of the frequencies utilised according to the studio licences issued with reference to a specific time limitation defined in this Act or issued for an indefinite period prior to the validation of this present Act.

The tender for the frequencies used on the basis of studio licenses issued with reference to time limitations defined in this Act is to be announced by the Commission within 9 months whereas for the frequencies used on the basis of studio licences issued for an indefinite period the tender needs to be announced after one year at the utmost of one and half years. These time limitations are to be calculated as from the validation of the Act. The studio licences lose their validity at the latest at the date of commencement of the broadcasting activities started on the basis of the broadcasting contract concluded on the strength of the tender.

(5) In the course of the evaluation process concerning the tenders designated in paragraphs (3)-(4) a special consideration and emphasis has to be given to the evaluation of the prior activity of the licensee previously entitled to broadcasting on the same frequency on the basis of a studio licence.

(6) The Commission can only conclude contracts with enterprises operating at the validation of this present contract but not complying with the contents of Articles 85-88., 108 and that of Section 8. on the condition that these enterprises are to modify their activities or transform their businesses till the 31st of December, 1996.

Section 147

(1) The regulations contained in Articles 20. and 21. do not effect the activities of telecommunication service companies providing value-added services already rendered before the validation of this present Act.

(2) A network television broadcasting activity cannot be commenced before the 1st of January, 1997 with the exception of network broadcasting concerning a signal area with a diameter not larger than 50 kilometres.

(3) The restriction contained in paragraph (2) cannot be applied in case of such a continuously operating broadcaster the activities of which is to be considered as network broadcasting according to this present Act and its operations

- have been started one year prior to the validation of this present Act
- it operates as network broadcasting a maximum of 4 hours of running time
- Before the 1st of January, 1997 the signal area of the broadcaster having received a license in such a manner cannot be larger than it had been three months before the coming into effect of the Act.

Section 148

(1) The government shall be authorised to establish the detailed conditions of the collection of licence fees in a decree effective as from the 1st of January, 1997.

(2) Within 30 days of the coming into effect of the Act the government will provide for

- measures necessary for the enforcement in Hungary of the Council of Europe convention on "Cross-Border Television Services",
- the amendment of the Government Decree No 95/1991. (VII.23.) Korm. on the Consumer Protection Supervision in accordance with this Act.

(3) The government will receive authorisation to issue a rule or a norm concerning the technical conditions of linking-up to a network.

(4) The Commission will receive authorisation for the definition of the notion of European or Hungarian made programmes. The Commission will publish its standpoint concerning this issue in the Magyar Közlöny prior to the publication of tenders for national broadcasting licenses and after the publication cannot alter the content thereof.

Section 149

(1) The government receives authorisation to - while asking the opinion of the Commission - provide for the establishment and fulfilment of technical conditions and requirements of radio and television broadcasting.

(2) The Hungarian Radio's receiving of additional budgetary subsidy for its broadcasting activity directed abroad is going to be decided upon by the Parliament in the annual budget plan.

TITLE FIVE

Section 150

Amending provisions

(1) Paragraph (1) of Article 343 of the Ccp. is going to be replaced by the following decree:

"(1) If the media fails to meet its disclaimer obligation within the deadline, the party requiring the disclaimer may institute a legal action against the editorial office of a periodical, the broadcaster as defined in the Act on radio and television services or the Hungarian News Agency."

(2) Paragraph (1) of Article 344. of the Ccp. will be replaced by the following decree:

"(1) In case of the periodicals with their editorial office in Budapest, all broadcasters with registered seat in Budapest and the Hungarian News Agency the Central District Court of Pest shall have competence in the action; in other cases the court in the district of which the editorial office of the periodical, or the registered seat of the broadcaster or studio is located shall have competence."

Section 151

(1) Paragraphs (1) and (2) of Article 50/G of the Copyright Act will be replaced by the decree:

"(1) The author shall be deemed to have given his consent to the concurrent transmission to the public of works broadcast or cable transmitted in the programme of the radio or television organisation or of an entity transmitting its own programme to the public via cable through an organisation other than the original and via cable if the organisation performing the concurrent transmission has paid the fee specified by the Copyright Protection Bureau with the consent of the Minister of Culture and Public Education to the said Bureau. The interest representation bodies shall be consulted before the fee is set.

(2) 65% of the fees received pursuant to paragraph (1) - net of expenses - shall be due to the authors or the beneficiaries of the copyright, 35% shall be due to the performing artists."

(3) In article 50/H. of the Copyright Act the words "In Articles 50/F and 50/G" will be replaced by the words "In Article 50/F".

Section 152

(1) Paragraph (1) of Article 12. of the Act No 2 of 1986 about media (in the following referred to as Media Act) shall be replaced by the following decree:

"(1) All persons shall have the right to produce and publish printed matters. This right may be restricted by statutes of law to a necessary and proportionate extent in order to enforce other fundamental constitutional rights."

(2) Article 12 of the Media Act shall be supplemented with the following paragraph (3):

"(3) The Ministry (national authority) exercising supervision over the armed forces, law enforcement bodies and police force exercises its right of registration with respect to publications by the above organisations for their internal use for purposes of education, training or instruction."

(3) Point a/ of Article 20 of the Media Act shall be replaced by the following provision:

"media shall mean periodical press publications, broadcasters as defined in the Act on Radio and Television Services and news agencies."

(4) The (3) paragraph of Article 22. of the Media Act shall be replaced by the following provision:

"(3) Legal actions defined in paragraph (1) of Article 15. and paragraph (2) of Article 19. as well as court proceedings for the prohibition of publication shall be in the authority and exclusive competence of the Metropolitan Court."

Section 153

(1) Paragraph (1) of Article 11. of the Act No 34 of 1989 on the election of Members of Parliament (hereinafter: Emp.) shall be replaced by the following provision:

"(1) The Hungarian News Agency, the Hungarian Radio and the Hungarian television shall publish the election statement of parties nominating election candidates on at least one occasion free of charge under identical conditions and not later than on the day preceding the election. The obligation of publication free of charge shall exist for every broadcaster in its own signal area and in respect of the election programmes of candidates under identical conditions. Advertisements promoting candidates or parties may be published exclusively with the designation "paid election advertisement"."

(2) Article 11. of the Emp. shall be supplemented with the following paragraph (4):

"(4) If a broadcaster reports on election events during the thirty days directly preceding the election, it shall proceed in accordance with the rules governing the Hungarian Radio and the Hungarian Television."

Section 154

Paragraph (1) of Article 1. of the Act No. 57 of 1990 on the order of appointment of the executives of public service media (Hungarian Radio, Hungarian Television, Hungarian News Agency) shall be replaced by the following provision and the numbering of paragraph (2) shall change to paragraph (4):

"(1) The President of the Republic, upon the recommendation of the Prime Minister - following the public hearing held by the Parliamentary committee responsible for cultural and media-related issues, and in case of a 4/5 support of the attending members of the committee - shall appoint and dismiss the presidents and vice-presidents of the Hungarian radio and Hungarian Television as well as the Chief Executive Officer of the Hungarian News Agency."

(2) The President of the Republic - upon the recommendation of the Prime Minister and following the public hearing held by the Parliamentary committee responsible for cultural and media-related issues - shall appoint and dismiss the Chief Executive Officer of the Hungarian News Agency."

3) Paragraph (2) comes into effect at the establishment of the Hungarian Radio and Hungarian Television share companies and simultaneously paragraph (1) will loose effect."

Section 155

Article 48. of the Act No. 86 of 1990 on the prohibition of Unfair Market Practices shall be supplemented with the following paragraph (3):

"(3) The penalty imposed on a broadcaster shall be payable into the broadcasting fund."

Section 156

Point k/ of paragraph (1) of Article 1. of the Act No. 16 of 1991 on concessions shall be replaced by the following provision:

(established by this Act)

"k/ telecommunication services (public service telephone services, public service mobile phone service, national public service pager services, distribution and transmission of national and regional radio and television programs with the exception of specialised broadcasting services,"

Section 157

(1) Paragraph (2) of Article 4. of the Act No. 86 of 1991 on corporate income tax shall be supplemented with the following point z/:

(During calculation of the taxable income, profits before taxation shall be reduced by:)

"z/ any voluntary payment into the broadcasting funds well as the sum directly spent on sponsoring public service programs as defined by the Act on radio and television services."

(2) The (2) paragraph of Article 1. of the Civil Service Act. shall be supplemented with the following text:

".....and the Office of the National Radio and Television Commission....."

Section 158

(1) Point d/ of paragraph (1) of Article 3. of the Ta. shall be replaced by the following provision:

(From telecommunication services)

"d/ the national and regional transmission and signal distribution of radio and television programmes with the exception of specialised broadcasting activities."

(2) Article 39 of the Ta. shall be supplemented with the following paragraph (3), the numbering of the current paragraphs (3)-(5) changing to (4)-(6) at the same time:

"(3) Any telecommunications organisation mentioned in paragraph (1) of Article 37. founded prior to the coming into effect of this act or the legal successor thereof may perform telecommunications services set forth in point d/ of paragraph (1) of Article 3. exclusively under a concession agreement after the 1st of March, 1996. The Minister shall also be entitled to conduct concession proceedings before or after that date."