

Media Law**SECTION I
Aims and Definitions.****Article 1***Aims.*

The aim of this Act is to promote freedom of expression, freedom of information, media literacy, diversity and pluralism in media and to enhance consumer protection in this area. The Act also aims at establishing a coordinated regulatory framework for media services irrespective of the type of media employed.

Article 2*Definitions.*

For the purposes of this Act, the following terms are defined as follows.

1. *Decoder*: a device intended to receive and process all aspects of digital broadcasts and transmit them to television receivers, this including, where appropriate, providing access to audiovisual contents that are only available in return for payment.
2. *Advertisement*: A commercial communication involving any type of announcement which is relayed in return for payment, or in the media service provider's own interests, involving the promotion of an image, product or service.
3. *Liable person*: the person who exercises overall control of a media service provider. If the media service provider is an individual, that individual is automatically regarded as the liable person.
4. *Programme schedule*: the entire assemblage of programmes.
5. *Programme*: a set of sounds and/or moving images constituting an individual item within a schedule or programme schedule established by a media service provider and whose form and content is comparable in terms of form and content to a radio or television broadcast.
6. *Surreptitious commercial communication*: the representation in words or pictures of goods, services, or the name, trade mark or activities of a producer of goods or a provider of services, in programmes when such representation is intended by the media service provider to serve as advertising and might mislead the public as to its nature.
7. *Content manager*: the employee of the media service provider who is responsible for the choice of content at any given time and who determines how it is to be structured, e.g. an editor, programmer, news editor or other comparable manager.
8. *Retransmission of foreign audiovisual service*: a television broadcast from a foreign media service provider that is received by an Icelandic media service provider and re-distributed by the latter to consumers in Iceland, by wire or by radio.
9. *European works*: audiovisual content which comes under item *n* of Article 1 of Council Directive 89/552/EEC (the Audiovisual Media Services Directive), with subsequent amendments.¹
10. *Electronic communications undertaking*: a natural or legal person that has informed the Icelandic Post and Telecom Administration of the proposed operation of an electronic communications network.

¹ The definition referred to is not found in the directive listed under this number; it is found in the codified version, Directive 2010/13/EU. [Translator's note.]

11. *Electronic communications network*: transmission systems and, where applicable, switching or routing equipment and other resources which permit the conveyance of signals by wire, by radio, by optical means, by electricity cable systems, high-voltage lines or by other electromagnetic means, including networks used for radio and television broadcasting.
12. *Teleshopping*: an audiovisual commercial broadcast involving the direct offer or sale of products and services, including immovable property, to the public in which one or more broadcasting medium is employed in the presentation of the offer and the conclusion of the agreement, without any meeting between consumer and seller. ‘Teleshopping’ covers both teleshopping windows and teleshopping spots. ‘Teleshopping windows’ constitute continuous programmes; ‘teleshopping spots’ consist of content that is inserted in between programmes, and are subject to the same rules as commercial communications.
13. *Medium*: any medium which regularly provides the public with content which is subject to editorial control. Media include, amongst other things, newspapers and periodicals, together with their supplements, internet media, audiovisual media and other comparable media.
14. *Media service*: the service provided by media.
15. *Media service provider*: the natural or legal person who operates a medium.
16. *Transmission*: according to the ‘must carry’ and ‘must offer’ rules, the transmission and distribution of audiovisual content from a television station’s connection point to the consumer’s decoder.
17. *Transmission rules*: the ‘must carry’ and ‘must offer’ rules.
18. *Must-offer obligation*: an obligation by which media service providers are required, if certain requirements are met, to comply with a request from an electronic communications undertaking to distribute content.
19. *Must-carry obligation*: an obligation by which electronic communications undertakings are obliged, if certain requirements are met, to comply with requests from media service providers to distribute content.
20. *Interactive advertising*: advertising which enables the recipient of audiovisual content to gain access to an advertisement at his own initiative, using any type of receiver.
21. *Podcasting (podcasts)*: when programmes, in their entirety or in part, are offered for downloading by the public.
22. *Audiovisual commercial communications*: commercial communications, on the one hand, and teleshopping, on the other.
23. *Audio media service*: a service provided by a media service provider consisting of audio broadcasts or podcasts or other types of audio service on demand.
24. *On-demand audio media service (non-linear audio media service)*: a service provided by a media service provider, irrespective of the type of receiver used to receive the transmissions and irrespective of whether payment must be made for the content, such that the user is able to listen to programmes in their entirety or in part at the time he chooses and at his special request on the basis the media service provider’s catalogue.
25. *Audio media service (linear audio service)*: any form of broadcasting of audio content, irrespective of the receiver used to receive the transmission, in which the provider of the audio media service provides programmes for simultaneous listening on the basis of a programme schedule.
26. *Sponsorship*: any contribution made by a public or private undertaking or natural person not engaged in providing audio or audiovisual media services or in the production of audio or audiovisual works, to the financing of individual programmes with a view to promoting its name, its trade mark, its image, its activities or its products.

27. *Paid-access transmission*: an audio or audiovisual transmission in which the audio or audiovisual signal is altered in order to grant access to the transmission exclusively to those who have paid for it.
28. *Audiovisual media service*: a service offered by a media service provider, consisting of television broadcasts or on-demand audiovisual media services.
29. *On-demand audiovisual media service* (non-linear audiovisual media service): a service offered by a media service provider, irrespective of the device used to receive the transmission and irrespective of whether or not the content transmitted must be paid for, such that the consumer is able to watch programmes, in their entirety or in part, at a time of his choosing and at his special request on the basis of the media service provider's catalogue of programmes.
30. *Print medium*: a medium which makes written content available in print or another comparable form, e.g. a newspaper or periodical.
31. *Electronic text medium*: a medium which makes text content available electronically, e.g. an internet edition of a newspaper or periodical, a newspaper or periodical which is transmitted by e-mail and other internet media.
32. *Text content*: text which is made available independently. 'Text content' also includes maps, drawings, pictures, written music, etc.
33. *Text-based service*: a service offered by a media service provider, consisting on the one hand of the provision of text content in printed form or another comparable form, and on the other of the provision of text content by electronic means.
34. *Editorial control*: control over the selection and organisation of the content made available.
35. *Independent producer of audio or audiovisual content*: an undertaking, which is also an independent legal person, that is independent of the audiovisual media service provider in the sense that it is not under the service provider's direct or indirect control, either individually or in a partnership with others, and is free to define its own commercial policy.
36. *Television broadcast* (linear audiovisual media service): any type of transmission of audiovisual media content, irrespective of the receiver used to receive it, in which the audiovisual media service provider offers content for simultaneous viewing on the basis of a programme schedule.
37. *Split-screen advertisement*: an advertisement which appears in part of the screen simultaneously with the transmission of any other type of audiovisual content.
38. *Virtual advertising*: advertising which is not present at the venue where a televised event takes place, but it added so that it appears in the broadcast or other transmission of the content.
39. *Commercial communication*: a text, image and/or audio content which is designed to direct attention, directly or indirectly, towards the products, service or image of a natural or legal entity pursuing an economic activity and is presented in return for payment or for similar consideration or for self-promotional purposes. Forms of commercial communication include, *inter alia*, advertisements, sponsorship and product placement.
40. *Receiver*: any device that receives and relays media content, e.g. a television, radio, computer, palm-top computer or mobile telephone.
41. *Product placement*: commercial communication including all types of audiovisual transmission for commercial purposes including or referring to a product, a service or the trade mark thereof so that it is featured within a programme, in return for payment or for similar consideration.

42. *Broadcast signal*: a transmission wave, carried over a wire or by radio, which conveys audiovisual content to receivers and/or decoders, either in digital or analogue form.

SECTION II

Scope and jurisdiction.

Article 3

Scope.

This Act covers all media which make content available to the public in Iceland, taking the provisions of Article 4 into account. It therefore applies to all audio and audiovisual content, whether in paid access or open access, linear or on demand, and all text-based content, whether this is presented in printed, or other comparable form, or electronically.

Article 4

Jurisdiction over audiovisual media service providers.

Iceland shall have jurisdiction over media service providers that transmit audiovisual content and are established in Iceland. Such entities shall be regarded as being established in Iceland in the following instances.

- a. When they have their headquarters in Iceland and decisions on programming and other matters covered by editorial responsibility are taken in Iceland.
- b. When they have their headquarters in Iceland and decisions on programming and other matters covered by editorial responsibility are taken in another state, or vice versa, providing that a substantial part of the workforce involved in the pursuit of audiovisual media service activity is employed in Iceland.
- c. When they have their headquarters in Iceland, decisions on programming and other matters covered by editorial responsibility are taken in another state, and a substantial part of the workforce involved in the pursuit of audiovisual media service activity is employed in each of the two states.
- d. When they have their headquarters in Iceland, decisions on programming and other matters covered by editorial responsibility being taken in another state, or vice versa, and a substantial part of the workforce involved in the pursuit of audiovisual media service activity is employed in neither of these states but the entity concerned has begun broadcasting under a broadcasting licence granted on the basis of Icelandic law and has maintained constant and active contact with the Icelandic business sector.

Iceland shall also have jurisdiction over media service providers that transmit audiovisual content and are established neither in Iceland, as provided for under the first paragraph of this Article, nor in another EEA member state, if they meet one of the following conditions:

- a. they use a terrestrial station located in Iceland for transmitting a signal via satellite, or
- b. they use the transmitting capacity of a satellite associated with Iceland, providing that a terrestrial station of another EEA member state is not employed for sending the signal to the satellite.

In the event of doubt regarding whether or not an audiovisual media service provider falls under Icelandic jurisdiction or that of another EEA member state, and if the question cannot be resolved on the basis of the first or second paragraphs of this Article, it shall be resolved on the basis of the Agreement on the European Economic Area (*cf.*, in particular, Part III, Chapter 2, on the right of establishment).

Article 5

Temporary blocking of the reception of audiovisual media contents from other EEA member states.

Notwithstanding Iceland's obligation to ensure freedom to receive television broadcasts from other EEA member states, the Media Commission may block such reception temporarily if the following conditions are met:

- a. the broadcast evidently, substantially and seriously violates Article 28 or Article 29 of this Act,
- b. the media service provider involved has violated item a of this paragraph on at least two occasions during the previous 12 months,
- c. the Media Commission has notified the media service provider involved, and the EFTA Surveillance Authority or the European Commission, as appropriate, in writing, of the alleged violation and of the measures that it intends to take if the violation is repeated, or
- d. consultation with the competent authority in the member state exercising jurisdiction of the media service provider involved and the EFTA Surveillance Authority or the European Commission, as appropriate, has not led to a solution within 15 days of the notification mentioned in item c and the alleged violation continues.

When, in the case of an on-demand audiovisual media service, it is permissible to block temporarily the reception of audiovisual content from another EEA state on the basis of the same considerations as are listed in item *a* of the first paragraph, and if the audiovisual content involved is considered as being, for other reasons, in violation of public order, the protection of public health, public security or the protection of consumers.

However, the Media Commission shall only block the reception of audiovisual content referred to in the second paragraph if the competent authority in the member state exercising jurisdiction over the media service provider involved has not complied with the authority's request to take measures against the media service provider involved, or the measures which it has taken are insufficient. In such a case, the Media Commission shall inform the EFTA Surveillance Authority or the European Commission, as appropriate, of the proposed blocking of reception of the content before it is implemented.

The provisions of the third paragraph may be waived in emergencies. However, such instances shall be reported without delay to the EFTA Surveillance Authority or the European Commission, as appropriate, and to the competent Authority in the member state involved, with special reasons given as to why the contingency constituted an emergency.

Article 6

Measures against media service providers which fall under the jurisdiction of other EEA member states.

If the Media Commission considers that a media service provider which comes under the jurisdiction of another EEA member state, but distributes audiovisual content that is mainly, or entirely, intended for reception in Iceland, has violated provisions of this Act, the Media Commission may request the competent Commission in the EEA member state involved to instruct the media service provider to comply with the relevant provisions.

If the Media Commission considers that the outcome obtained by the application of the first paragraph is unsatisfactory, and that the media service provider involved has acquired establishment in the EEA member state in question solely for the purpose of circumventing Icelandic law, it may take appropriate measures against the media service provider under this Act if the following conditions are met:

- a. it has notified the media service provider involved, and the EFTA Surveillance Authority, or the European Commission, as appropriate, and the competent authority in the EEA member state involved, of the measures it intends to take, and has given reasons for them, and
- b. the EFTA Surveillance Authority or the European Commission, as appropriate, has confirmed that the measures in question are compatible with the provisions of the EEA Agreement and that the Media Commission's assessment under the first and second paragraphs of this Article is correct.

If the European Commission or the EFTA Surveillance Authority comes to the conclusion that the measures are not compatible with the provisions of the EEA Agreement, the Media Commission shall not take the aforementioned measures.

SECTION III Administration.

Article 7

The Media Commission.

The Media Commission is an independent administrative committee under the Minister of Education, Culture and Science. The Commission shall carry out supervision according to this Act and shall attend to day-to-day administration in the fields covered by the Act.

No appeals may be made to other executive authorities against decisions taken by the Media Commission under this Act.

Costs of the Media Commission's operations shall be met from the State Treasury.

In carrying out supervision of commercial offers which come under the supervision of other authorities according to separate legislation, the Media Commission shall seek collaboration on the division of responsibilities with those authorities.

The Media Commission shall enter into a collaboration agreement with the Consumer Protection Agency on matters that may fall under the province of both institutions.

Article 8

Appointment of the Media Commission.

The Minister of Education, Culture and Science shall appoint five persons to the Media Commission for terms of four years at a time. Two representatives shall be appointed in accordance with a nomination by the Supreme Court of Iceland, one in accordance with a nomination by the standing Committee of the Rectors of Icelandic Higher Education Institutions and one in accordance with a nomination by the National Union of Icelandic Journalists; the fifth shall be appointed by the minister without nomination. Alternates shall be appointed in the same way. The minister shall appoint the chairman of the commission, who shall meet the requirements for serving as a district court judge. The deputy chairman shall be appointed from among the principal members. Other members, and their alternates, shall have a special knowledge of media matters, or experience or educational qualifications that are relevant in this field. Competence of the commission members shall be subject to the Administrative Procedure Act, No. 37/1993. The minister shall determine remuneration to the directors.

The directors shall be legally and financially competent. They shall have unblemished reputations and may not have been sentenced by a court for criminal activities under the General Penal Code or the provisions of separate criminal statutes in connection with business operations.

The Media Commission shall set itself working rules, which shall be published in Series B of the Law and Ministerial Gazette.

Article 9

Staff of the Media Commission.

The Media Commission may engage a manager and other staff to carry out, on its behalf, the day-to-day functions and control of the tasks entrusted to it under this Act. The manager shall be responsible for the finances of the Media Commission. He or she shall have university qualifications and shall have a special knowledge of media matters. The wages and terms of service of the staff shall be in accordance with civil servants' collective agreements and the Media Commission shall issue members of the staff with their job descriptions.

Article 10

Field of operations of the Media Commission.

The operations of the Media Commission shall be aimed at ensuring that the aims and objectives of this Act are achieved. It shall strive to enhance variety, pluralism and media literacy and also to defend freedom of expression and freedom of information. In particular, the Commission shall encourage respect for the protection of minors in accordance with the provisions of this Act.

The Media Commission shall execute the tasks entrusted to it according to law. Amongst other things, the Media Commission shall:

- a. monitor to ensure that the media service providers under Icelandic jurisdiction comply with the provisions of this Act; it shall take decisions in matters covered by the Act and apply sanctions when appropriate;
- b. monitor the status and developments on the media market and collect data relating to these issues;
- c. handle communications with comparable authorities in other EEA member states and international organizations regarding matters in the scope of its operations;
- d. monitor registration obligations, the granting of licences for the provision of audiovisual media services and ensure that the information specified by law on all the media service providers covered by this Act is to hand, and
- e. monitor the contents and presentation of audiovisual commercial communications and of commercial communications in printed media and electronic text media.

Article 11

Procedure.

Complaints arising from alleged violations of the provisions of this Act shall be submitted to the Media Commission. The Media Commission shall decide whether complaints received give sufficient occasion for further treatment. When dealing with matters under this Act, the Media Commission may rank them in order of priority. Furthermore, the Media Commission may look into matters at its own initiative.

The Media Commission shall, as quickly as possible, take decisions on matters that are submitted to it.

The Media Commission shall, as appropriate, observe confidentiality in the handling of information and content which it gathers, or which are submitted to it, under this Act regarding the standing and internal affairs of individual media service providers. The same confidentiality shall apply if the Media Commission submits the information to other comparable administrative institutions handling media matters within the European Economic Area. Measures shall be taken to ensure that statistical data cannot be traced to individual media service providers.

Article 12

Special investigative authorisation.

The Media Commission may require media service providers to submit information in writing and other content in connection with alleged violations of this Act, in which case such information and content shall be submitted before an appropriate deadline set by the Commission.

When investigating alleged violations of the provisions of Section VI, on commercial communications and teleshopping, the Media Commission may carry out necessary examinations at a media service provider's workplace, or a place where content is kept, when there are strong reasons for believing that a violation of the aforementioned provisions has taken place. When carrying out such measures, the provisions of the Code of Criminal Procedure shall be observed regarding searches and the seizure of items.

Article 13

Exchange of information.

The Media Commission may make over to the authorities of other member states of the European Economic Area, and to the European Commission or, as appropriate, the EFTA Surveillance Authority, information and content considered necessary in the application of this Act in accordance with Iceland's undertakings under the Agreement on the European Economic Area.

When information and content is made over, conditions shall be set, as appropriate, to ensure that:

- a. the information and content will be treated in confidence by the recipient,
- b. the information and content will only be used for the purposes specified in the Agreement on the European Economic Area and in accordance with the request made for the information, and
- c. the information and content will only be made over to other parties with the approval of the Media Commission and for the purpose specified.

SECTION IV

Registration of media, licences for the provision of audiovisual media services, transparency, provision of information, etc.

Article 14

Registration of media.

All activities covered by the scope of this Act and not subject to the issue of a licence shall be subject to a registration requirement. A media service provider that does not provide audiovisual media services which are subject to a licence requirement shall notify the Media Commission of its operations before they commence.

Notifications as provided for under the first paragraph of this Article shall be in writing and shall include information on the identity of the media service provider in question, its ID No., legal domicile, e-mail address and URL, the name of the medium or media which it operates, the name of the person liable, its editorial or programming policy, its call-sign (where appropriate) and the ownership structure of the media service provider in question.

The person liable for the media service provider shall be domiciled in Iceland and be legally and financially competent.

Media service providers shall inform the Media Commission of any changes to their circumstances that may occur and that have a bearing on the information on which their notifications under the second paragraph of this Article are based.

Article 15

Retransmission of foreign audiovisual services.

Notification shall be given to the Media Commission of audiovisual content which is retransmitted from foreign media service providers covered by this Act. Notification shall be made in writing, stating the name of the foreign media service provider in each instance, its address, e-mail address, URL and call-sign. Information regarding the editorial responsibility, programming policy and ownership of the media service provider in question shall also be given if it is available.

Article 16

Licences for the provision of audiovisual media services.

A licence from the Media Commission shall be required for the provision of audiovisual services by a media service provider subject to the jurisdiction of the Icelandic state which requires the allocation of a transmission frequency by the Post and Telecom Administration unless other provisions are made in this Act.

The Media Commission may issue legal and natural persons temporary licences for the provision of audiovisual media services: general licences for up to seven years at a time, or short-term licences for a maximum of three months. Licences may either cover the whole country or may be local, i.e. restricted to individual parts of it.

Article 17

Applications for licences for audiovisual media services.

Applications for general licences for the provision of audiovisual media services shall be made in writing, and shall contain the following information, as appropriate:

- a. the applicant's name, ID No., legal domicile, e-mail address and URL;
- b. the name of the liable person;
- c. the intended programming policy;
- d. the call-sign;
- e. other media activities pursued by the applicant;
- f. the ownership structure of the applicant;
- g. whether a licence is sought for the provision of audio or audiovisual content in a foreign language, and if so, then the reason for this;
- h. whether the licence sought is to cover the whole country or to be a local licence;
- i. whether the required permission has been obtained from the holders of copyright of the content;
- j. when it is proposed to begin providing the audiovisual service;
- k. the length of time for which the licence is sought.

Applications for short-term licences for the provision of audiovisual media services shall also be made in writing and shall contain the same information as is specified in the first paragraph of this Article, with the exception of that specified in items *e* and *f*.

Applicants for general licences shall submit certificates testifying to the liable person's domicile, legal competence and control of his or her estate and, where appropriate, a certificate from the Registry of Companies testifying that the company has been established and is in existence.

Applicants for licences shall be established in an EEA member state. Licences for other parties to provide audiovisual media services shall be subject to the Foreign Parties' Business Investment Act.

Article 18

Processing of applications for licences for audiovisual media services.

Before adopting a position on a licence application, the Media Commission shall seek the comments of the Post and Telecom Administration regarding available frequencies and radiated power. After receiving these comments, the Media Commission shall decide whether the licence should be granted.

Where a licence for the provision of audiovisual media services is granted, the conditions of the licence shall state the identity of the licensee, whether the licence is for audio or audiovisual services, the part of the country to which it applies, its term of validity, the call-sign, the programming policy of the party concerned and other matters that may be of significance.

The Post and Telecom Administration shall allocate transmission frequencies in accordance with international agreements to those that have been granted licences, specifying the technical properties, e.g. regarding frequency and radiated power, in accordance with established rules and international agreements.

Article 19

Particular obligations of licensees.

Media service providers may raise income by means of broadcasting fees, subscriptions, commercial communications, teleshopping and the sale or rental of products relating to their programme content.

The operations, bookkeeping and finances associated with the activities for which a licence is required shall be kept separate from the licensee's other operations and finances. The Media Commission may demand information from the licensee's books and accounts, if this is considered necessary, to establish whether the provisions of laws or regulations, or the conditions of the licence, have been violated. Principal members and alternates of the Media Commission shall be under a non-disclosure obligation regarding all matters that should not be divulged.

Licences for the provision of audiovisual media services may not be assigned, hired out or transferred in any other manner to another party. If a licensee's estate is taken into liquidation and/or if the liable person does not meet the requirements stated in the third paragraph of Article 17, the licence shall expire immediately.

Article 20

Amendment of licence conditions; renewal and withdrawal of licences.

Media service providers shall inform the Media Commission of all changes to their circumstances that may occur during the term of the licence and have a bearing on the information on which their applications were based under Article 17 of this Act.

A licensee wishing to have the conditions of the licence amended shall submit a special application to that effect to the Media Commission.

A licensee wishing to have a licence renewed shall apply to the Media Commission not later than two months before the current licence is due to expire.

If the licensee has not begun operations within six months of the date stated according to item *j* of the first paragraph of Article 17, the licence shall expire automatically. If operations are suspended and not resumed within four months, the licence shall be considered as having expired automatically.

Licensees shall inform the Media Commission when their operations are permanently terminated.

Article 21

Information on the homepage of the Media Commission.

The following information shall be published on the homepage of the Media Commission:

- a. the name of the party that has given notice of its activities or received a licence, its ID No., legal domicile, e-mail address and URL and the term of its licence, where appropriate;
- b. the name of the liable person;
- c. the programming policy, and subsequent notices of amendments thereto;
- d. editorial policy in the case of print media and electronic text media and subsequent notices of amendments thereto;
- e. the ownership structure of the media service provider;
- f. the media service provider's rules regarding the editorial independence;
- g. the media service provider's equality schedule, as appropriate, and
- h. decisions by the Media Commission on matters involving media service providers; however, information which it is fair and natural not to reveal regarding individuals' private matters that are of a sensitive nature, and regarding the important financial and commercial interests of legal persons, shall be omitted.

Article 22

Obligation to report changes in the ownership structure of media service providers.

When a shareholding in a media service provider is sold, the seller and the purchaser shall be responsible for having a notification sent to the Media Commission. The sale notification shall have been received by the Media Commission within two working days of the conclusion of the purchase contract. This provision shall not apply if the board of the limited company has made a contract with a securities depository in accordance with the third paragraph of this Article.

Following each annual general meeting in private limited companies and limited companies that are subject to registration requirements under this Act or hold licences for the provision of audiovisual media services, the board of the company shall send the Media Commission the company's register of shareholders within four working days of the holding of the meeting. This provision shall not apply if the board of the limited company has made a contract with a securities depository in accordance with the third paragraph of this Article.

The board of a limited company that is subject to registration requirements or holds a licence for the provision of audiovisual media services under this Act and whose shares are registered in a securities depository may make a contract with the securities depository by which it will send daily updates of the company's register of shareholders to the Media Commission.

Article 23

Reporting by media service providers.

All media service providers shall be obliged to send the Media Commission an annual report containing information on the following matters, as appropriate:

- a. the proportion of European works in their linear programme schedule;
- b. the proportion of European works from independent producers in their linear programme schedule;
- c. the proportion of Icelandic works in their linear programme schedule;
- d. the proportion of orders of European works in their non-linear (on-demand) catalogue;

- e. the proportion of orders of works by independent producers in their non-linear (on-demand) catalogue;
- f. the proportion of orders of Icelandic works their non-linear (on-demand) catalogue;
- g. measures taken by the media service provider in question to promote the publicising of, and access to, European works;
- h. measures taken by the media service provider in question to expand access by persons with restricted sight and hearing to its audiovisual content;
- i. presentation of the genders, including the proportion of men and women among persons interviewed in news broadcasts and news-related content;
- j. the staff of the medium, with numbers of women and men, itemised by job designation;
- k. measures taken by the media service provider to counter stereotyped gender images, and
- l. other matters which are necessary to assess the situation and trends on the market for audiovisual media services.

Media service providers with short-term licences as provided for in the second paragraph of Article 16 shall be exempt from the requirement to submit reports.

Media service providers shall submit their reports, as provided for in the first paragraph of this Article, to the Media Commission not later than 31 March each year in respect of the previous year.

Under special circumstances, all media service providers shall be obliged, following a request by the Media Commission, to submit the information specified in the first paragraph of this Article by a reasonable deadline set by the Commission.

The Media Commission may impose the requirement that a professionally accredited certification body endorse reports submitted by media service providers under the first and third paragraphs of this Article. The Media Commission shall pay the expenses resulting from the work of the certification body.

Certification bodies and their employees shall be bound by a non-disclosure obligation regarding matters of which they become aware, and which should not be revealed, in the course of carrying out work under the fifth paragraph of this Article. Article 18 of the Civil Servants' Rights and Obligations Act, No. 70/1996, shall apply regarding this non-disclosure obligation, and violations of the obligation shall be punishable under Article 136 of the General Penal Code, No. 19/1940.

SECTION V

Rights and obligations of media service providers.

Article 24

Editorial independence.

Media service providers shall set themselves rules regarding the editorial independence of those of their staff who are involved with news and news-related content. Such rules shall be compiled in consultation with the employees involved and their professional associations or trade unions.

Rules on editorial independence shall address issues including the following:

- a. the working conditions of the content managers, journalists and news reporters working on text media and audiovisual media when pursuing the media service provider's editorial or programming policy;
- b. working methods intended to ensure editorial independence of the content managers, journalists and news reporters in question vis-à-vis the media service provider's owners, and
- c. conditions for cautioning and dismissing content managers and journalists and news reporters.

Rules on editorial independence shall be submitted to the Media Commission for endorsement.

Rules on editorial independence shall be reviewed every year. The Media Commission shall be informed when the review has taken place, and the new version of the rules shall be submitted to it for endorsement if changes have been made.

Article 25

Protection of sources.

Employees of media service providers which have been issued with a licence or have been registered with the Media Commission may not reveal the identity of the source on which an article, publication, report, announcement or other content is based, irrespective of whether it has been published or not, if the source or author has requested anonymity. Nor may employees of the media service provider release content containing information about a source or author in such instances.

The prohibition set forth in the first paragraph of this Article shall also apply to those who, through their connections with the media service provider or the production of content have become aware of the identity of the source or author, or who are in possession of content relating thereto.

Protection (anonymity) as provided for under the first and second paragraphs of this Article may only be lifted with the consent of the source or author concerned, or under Article 119 of the Code of Criminal Procedure, No. 88/2008.

Article 26

Democratic principles.

Media service providers shall, in all their activities, uphold democratic principles and guard freedom of expression. They shall respect human rights and equality and bear in mind the right to privacy. Media service providers shall take care to meet requirements regarding impartiality and accuracy in their comments on news and news-related content and ensure that a variety of opinions are expressed, including both those of men and women.

A media service provider that has a declared policy of serving a particular cause shall not be obliged to broadcast programme content which is opposed to its policy.

Article 27

Prohibition against hate speech and incitement to criminal behaviour.

Media service providers may not incite people to criminal behaviour. They shall be forbidden to encourage hatred in the media on grounds of race, gender, sexual orientation, religious belief, nationality, opinion or cultural, economic, social or other standing in society.

Article 28

Protection of minors against harmful content.

Media service providers presenting audiovisual content may not transmit content, including commercial communication and teleshopping, which might have a harmful effect on the physical, mental or moral development of minors; in particular this refers to content involving pornography or gratuitous violence.

The following exemptions may be made from the prohibitions stated in the first paragraph:

- a. Between 9.00 p.m. and 5.00 a.m., content which is not considered suitable for minors may be transmitted in a linear schedule providing that it is preceded by a clear warning and, in the case of audiovisual content, that it is characterised by a visual marking displayed throughout the transmission.

- b. Content that is not considered suitable for minors may be transmitted in a linear schedule providing that the appropriate technical measures are taken to ensure that the transmission will not reach minors.
- c. On-demand audiovisual media content which is not considered suitable for minors may be transmitted on the condition that appropriate technical measures are taken to ensure that minors will not have access to it.
- d. News and news-related content not considered suitable for minors may be transmitted on the condition that it constitutes a necessary part of the news service of the medium in question and that it is preceded by a clear warning and, in the case of audiovisual content, that it is characterised by a visual marking displayed throughout the transmission where this is possible.

The exemption provisions of items *a* and *b* of the second paragraph of this Article shall not apply to audiovisual content that may seriously impair the physical, mental or moral development of minors.

Other media service providers shall strive to ensure that content which might have a harmful effect on the physical, mental or moral development of minors is not accessible to, or made available to, them.

Article 29

Voice-overs and subtitling in Icelandic.

Media service providers shall, as appropriate, promote the Icelandic language. Media carrying sound and text in Icelandic shall set themselves a language policy for this purpose. Nevertheless, it shall be permitted to operate media in Iceland in languages other than Icelandic.

Content in a foreign language, whether it is made available in a linear schedule or on demand, shall at all times be accompanied by Icelandic voice-over or subtitles, as appropriate. However, this shall not apply to the lyrics of foreign songs or to live transmissions via satellite and a receiving station of news and current affairs programmes dealing to a substantial extent with events as they take place. In such case the media service provider shall, where possible, provide a recapitulation or presentation in Icelandic of the events that have taken place.

The provisions of the second paragraph of this Article shall not apply to retransmissions from foreign television stations providing that what is involved is a continuous, unabridged and unaltered retransmission of the full programme of the television stations. Nor shall the provisions of the second paragraph of this Article apply when the audio or audiovisual medium is operated in a language other than Icelandic (*cf.* the first paragraph of this Article).

Article 30

Access by persons with impaired sight and hearing to audiovisual content.

Those media service providers that transmit audiovisual content shall, as far as possible, seek to have their services accessible by persons with impaired sight and hearing and those who have developmental imbalances. Measures to ensure such access include sign language, subtitling and verbal descriptions.

Article 31

Obligations in terms of the public interest.

Media service providers shall be obliged to transmit, free of charge, announcements from the Civil Protection Department, the law-enforcement authorities, emergency prevention associations and rescue teams, and to interrupt linear services if necessary.

Article 32

Identification obligations.

Media service providers transmitting audio or audiovisual content in a linear schedule shall be obliged to display their name or other distinguishing mark, in the case of audiovisual services, and announce their name, in the case of audio services. Identification of this type shall occur at least once in every 30 minutes of transmission where possible.

The catalogue of a media service provider operating on-demand audio or audiovisual services shall include information on the identity of the service provider.

Media service providers of printed text content shall be named in every copy; the editor, if one has been engaged, shall also be named.

Media service providers of electronic text content shall identify themselves in a satisfactory manner in the medium in question; the editor, if one has been engaged, shall also be named.

Article 33

Offer of audiovisual media content.

Media service providers transmitting audiovisual content in a linear schedule shall strive to have the greater part of their transmission time devoted to Icelandic programmes and other programmes from Europe. 'Transmission time' in this context refers to their total transmission time less the time devoted to news, sporting events, games, advertisements, teletext services and teleshopping.

Media service providers transmitting on-demand content shall, as far as possible, ensure by suitable methods that Icelandic content and other European works constitute a conspicuous proportion of the content they offer.

Article 34

Programme content from independent producers.

Media service providers transmitting audiovisual content in a linear schedule shall, as far as possible, ensure that at least 10% of their transmission time (*cf.* the second sentence of the first paragraph of Article 33) each year, or at least 10% of their annual programming budget, is devoted to European works that are produced by independent producers.

Article 35

Obligation to preserve media content.

Media service providers shall preserve recordings of all original content for at least 18 months if this does not violate the rights of the copyright holders. The beginning of the period referred to in the first sentence of this paragraph shall be based on the time when the content is first made available.

Article 36

Right of reply.

Any party who considers that his legitimate interests, and in particular his reputation and good name, have been damaged by the distortion of facts in a medium shall have the right to reply in the medium concerned or to another equivalent remedy. Replies shall be published or made available immediately after reasons have been advanced in support of a request to this effect. Replies shall be published or presented, irrespective of the form of the medium, in such a manner as to command attention. The media service provider may not seek payment for publishing the reply or making it available.

Media service providers may reject a request to reply under the following circumstances:

- a. if the reply exceeds the time considered necessary to rectify the facts of the case;

- b. if the reply contains other content and/or more content than that which rectifies the facts that have been publicised by the media service provider;
- c. if the reply contains content that violates the General Penal Code and is of such a nature as to involve the media service provider in compensatory liability, or is contrary to public morals;
- d. if the reply infringes the legally protected interests of a third party;
- e. if the party is unable to demonstrate that he has personal legally protected interests at stake, and
- f. if the information broadcast by the media service provider consists of direct citations of content originating from government authorities or courts of law.

A rejection under the second paragraph of this Article shall be announced to the party in question within 72 hours of the submission of the request to make a reply.

If a media service provider rejects a request to make a reply under the second paragraph of this Article or fails to respond to a party's request within the time limit stated there, the party in question may direct his or her request to this effect to the Media Commission, which shall take a decision on whether or not the party is entitled to make a reply. This decision shall be taken within a week of the receipt of the request by the Media Commission, and the Commission shall require the medium to present the reply without delay where appropriate.

Those who consider their rights have been violated, and who are entitled to make a reply under the first and second paragraphs of this Article, shall be provided, free of charge, with a copy of the content in question. Disputes regarding entitlement to content according to this paragraph may also be referred to the Media Commission for a decision.

The legality of a rejection by a media service provider may be referred to the Media Commission, which shall decide whether the party is entitled to make a reply in accordance with the first paragraph of this Article.

Media service providers shall have information accessible on their homepage, or in another public manner, detailing where parties may apply if they consider that their lawful interests have been damaged. The name, telephone number and/or e-mail address of the relevant media service provider's contact person shall be stated.

SECTION VI

Commercial communications and teleshopping.

Article 37

General principles.

Commercial communications shall be readily recognizable as such and shall be clearly differentiated from other content in the manner best suited to the type of medium employed in each individual instance. The same shall apply to teleshopping.

Surreptitious audiovisual commercial communications shall be prohibited. Audiovisual commercial communications shall not employ subliminal techniques.

Commercial communications and teleshopping shall not:

- a. prejudice respect for human dignity;
- b. include or promote any discrimination based on gender, racial or ethnic origin, nationality, religion or belief, disability, age or sexual orientation;
- c. encourage behaviour prejudicial to health or safety;
- d. encourage behaviour grossly prejudicial to the protection of the environment.

Commercial communications for tobacco products, alcoholic beverages and the operation of lotteries or betting which is not licensed under law in Iceland shall be prohibited. The same applies to commercial communications for medicinal drugs for which prescriptions are required, as specified in

the Medicinal Drugs Act. It must be possible to produce evidence in support of assertions made in commercial communications and teleshopping shots for non-alcoholic beverages.

Article 38

Protection of minors against inappropriate commercial communications and teleshopping.

Commercial communications and teleshopping shall of such nature as not to cause moral or physical damage to minors. In commercial communications and teleshopping it shall be prohibited to:

- a. exhort minors to buy a product or service by exploiting their inexperience or credulity,
- b. encourage them to persuade their parents or others to purchase the goods or services being advertised,
- c. encourage minors to consume foods and beverages containing nutrients and substances with a nutritional and physiological effect, excessive intakes of which in the overall diet are not recommended, in particular fat, trans-fatty acids, salt/sodium and sugars,
- d. exploit the special trust minors place in parents, teachers or other persons, or
- e. show minors in dangerous situations without good reason.

Article 39

Product placement in audiovisual content.

Product placement shall be permitted in cinematographic works, films and series made for audiovisual media services, sports programmes and light entertainment programmes.

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

Product placement in return for payment shall at no time be permitted in audiovisual media content that is intended for minors.

Audiovisual media content containing product placement shall meet all of the following requirements:

- a. The product placement may not affect the substance of the audiovisual media content in other respects or have an influence on the responsibility and editorial independence of the media service provider.
- b. It may not give direct encouragement to the purchase or hire of products or services.
- c. The product or service in questions shall not be presented with undue prominence.
- d. Viewers shall be clearly informed of the existence of product placement and of its provenance; this shall include the appropriate identification of programmes containing product placement at the start and the end of the programme, and when a programme resumes after an advertising break.

If the media service provider itself has neither produced nor commissioned the audiovisual media content in question, and it has not been produced by a company affiliated to it, the identification requirements provided for in item *d* of the fourth paragraph of this Article may be waived.

Article 40

Virtual advertising.

Virtual advertising shall be permitted in audiovisual content if the following conditions are met.

- a. the positioning of the advertisement shall be a normal part of the environment of the programme in question and shall not interfere with viewers' ability to follow the progress of the programme;
- b. the advertisement may neither conflict with the content of the programme nor compromise the rights of copyright holders, and
- c. viewers shall be clearly informed that the programme in question contains virtual advertising and from what parties it originates; this shall involve the marking of virtual advertisements in a suitable manner at the beginning and at the end of the programme and when the programme resumes following an advertisement break.

However, virtual advertising shall at no time be permitted in audiovisual media content that is intended for minors.

Article 41

Timing of advertisements and teleshopping spots.

Advertisements and teleshopping spots may be inserted in programmes in such a way as not to disrupt their flow, taking into account natural breaks in, and the duration and nature of, the programme and the rights of copyright holders.

The proportion of advertisements and teleshopping spots within each hour of audiovisual broadcasting shall not exceed 20%. For the purpose of this provision, the following shall not be counted as advertisements.

- a. Announcements from the media service provider concerning its own audiovisual media content and supporting production directly resulting from that content, sponsorship announcements and announcements concerning product placement and virtual advertising.
- b. Announcements of public services and appeals from charity organisations for help which are broadcast free of charge.

Without prejudice to the provisions of the first paragraph of this Article, it shall be prohibited to interrupt the transmission of films made for television (with the exception of series, serials and documentaries), cinematographic works and news programmes by advertisements and/or teleshopping spots more than once in each scheduled period of at least 30 minutes.

Religious services or comparable religious ceremonies, and news bulletins, may not be interrupted by advertisements or teleshopping spots.

Advertisements and teleshopping spots shall not be permitted in a programme intended for children under the age of 12. This prohibition shall take effect 5 minutes before the beginning of a programme schedules intended for children under the age of 12 and shall last until 5 minutes after the end of the transmission of such programme schedules.

Article 42

Sponsorship.

Media service providers may arrange sponsorship for the production and purchase of audiovisual media content, providing that the sponsor does not influence the content, treatment and/or scheduling when sponsored contents are produced and does not interfere with the responsibility or editorial independence of the media service provider.

News broadcasts and news-related content may not be sponsored.

Sponsored content may not include an encouragement to purchase or hire the products and services of the sponsor or of another party, e.g. by specially promoting such products or services.

Sponsored audiovisual media content shall be clearly distinguished as such by an introduction, the name, trademark, another distinguishing mark of the sponsor or in another way best suited to the

medium employed. The distinction shall be made at the beginning of a programme, during the course of the programme and/or at the end.

Parties other than the media service provider may not sponsor the overall programme schedule of the medium, though this does not apply to individual programmes.

Article 43

Audiovisual media services which are devoted exclusively to advertising, teleshopping and self-promotion, and to teleshopping windows.

The provisions of this Act shall apply, *mutatis mutandis*, to audiovisual media services which are devoted exclusively to advertising, teleshopping or self-promotion. However, the provisions of Articles 33, 34 and 41 of this Act shall not apply to such services.

The following provisions shall apply to teleshopping windows in an audiovisual media service that is not exclusively devoted to teleshopping.

- a. They shall last for at least 15 minutes without interruption.
- b. They shall be clearly distinguished by means of a visual sign, an audio marker or by another means best suited to the medium employed.

The Door-to-Door Sales and Distance Contracts Act shall apply, as appropriate, to teleshopping as defined under this Act.

SECTION VII

Rules on the transmission of audiovisual media content.

Article 44

Must-carry obligation.

An electronic communications undertaking operating an ordinary digital telecommunications network which is used to transmit television broadcasts shall be obliged to comply with normal and reasonable requests by media service providers to transmit television broadcasts, providing that the following conditions are met:

- a. the content which it is sought to have transmitted is a television broadcast by a media service provider which is established in Iceland under this Act; this shall not apply to television broadcasts that are exclusively devoted to teleshopping.
- b. the television broadcast is transmitted in real time and is of traditional digital quality, and
- c. A considerable proportion of the consumers in the country, or in a specific region, use the electronic communications network in question to receive television broadcasts.

Even though the conditions of the first paragraph of this Article are met, the electronic communications undertaking shall only be obliged to carry television broadcasts under this provision up to one third of the transmission capacity of the electronic communications network in question. If requests for transmission are in excess of the capacity of the electronic communications network, the undertaking shall transmit those television broadcasts that have the highest viewing figures. At all times, however, television broadcasts by the National Broadcasting Service (RÚV) shall be transmitted if this is requested.

The media service provider shall arrange for the broadcasting signal to be delivered to the electronic communications undertaking's contact point in the appropriate format.

Article 45

Must-offer obligation

Media service providers shall be obliged to comply with normal and reasonable requests that an electronic communications undertaking be permitted to carry television broadcasts on its digital electronic communications network, providing that the following conditions are met:

- a. That the transmission of television broadcasts to consumers via the electronic communications network in question is effected with satisfactory quality, and also with sufficient security, as to defend the legally-protected interests of the holders of copyright in the content transmitted. In the case of a paid-access television transmission, it shall be possible to apply access control. The Post and Telecom Administration shall set rules on minimum requirements regarding quality and security of transmissions.
- b. That the content which permission is being sought to carry on an electronic communications network consists of an Icelandic television broadcast by an audiovisual media service provider which is established in Iceland under this Act, or a foreign television broadcast for which an Icelandic audiovisual media service provider has concluded an exclusive contract, or a broadcast of coverage of particular events which does not constitute an entire programme as provided for above, e.g. sporting or artistic events.
- c. That provision in contracts with copyright holders in the content which were made prior to the commencement of this Act do not prevent the carrying of the content on the electronic communications network.

The provisions of the first paragraph of this Article shall also apply to deferred television transmissions, transmissions according to high-definition standards or other standards which require considerably greater bandwidth.

If the media service provider holds a local licence, then the offer obligation under this Article shall not extend beyond the region covered by the local licence.

When purchasing television content, media service providers shall be obliged to negotiate with copyright holders so as to ensure that the television content may be transmitted on all digital electronic communications networks that meet the conditions of item *a* of the first paragraph of this Article.

Audiovisual media service providers may not direct their customers' business to an affiliated electronic communications network.

Article 46

Procedure and application.

If a contract is sought for the transmission of a television broadcast covered by Article 44 or 45, the media service provider and the electronic communications network shall conclude the contract as soon as possible. When contracts are made, equality shall be observed regarding the carriage of television broadcasts under Articles 44 and 45 and regarding the application of those articles. Contracting parties shall be set the same terms in the same types of transaction, and they shall be provided with services and information on the same conditions, and of the same quality, as apply when the entity provides its own service departments, subsidiaries or partners with services and information. If an electronic communications undertaking carries a television broadcast on the basis of a contract or a decision, then the electronic communications undertaking shall observe equality between Icelandic television broadcasts and make all such broadcasts equally accessible to users. The electronic communications undertaking shall also ensure that television broadcasts in Icelandic have priority, being ranked in front of foreign retransmission channels in the order on the remote control. However, this provision shall not apply to television broadcasts which are to be operated for periods shorter than one year and television broadcasts that are devoted exclusively to teleshopping.

If no contract is concluded regarding transmission, or if a dispute arises concerning transmission at a later stage, parties may refer the matter to the Post and Telecom Administration. The administration shall then seek to mediate a solution between the parties. If no solution can be effected, the dispute shall be resolved by a decision as quickly as possible. Before taking a decision, the Post and Telecom Administration shall seek the opinion of the Media Commission.

If the Post and Telecom Administration authorises the transmission, and if the parties do not agree on the control of the subscription system, then the administration may decide, at the demand of a party, whether the control of the subscription system is to be in the hands of the media service provider or the electronic communications undertaking. In the same way, the Post and Telecom Administration may determine fees in conformity with the further provisions of Article 47. When making its assessment, the Post and Telecom Administration shall take account of factors including efficiency, consumers' interests and the enhancement of competition, giving due regard to the principle of proportionality. Before the decision is taken, the Post and Telecom Administration shall seek the opinion of the Media Commission.

The Post and Telecom Administration may take a provisional decision if there is a danger that a delay in taking a decision would result in the loss of rights by a party to the case or that the party would sustain substantial financial loss. Provisional decisions shall be valid for a specified length of time, and may be extended if this is considered necessary. A final decision shall be taken as quickly as possible.

For the processing of cases under this Article, parties shall be obliged to provide the Post and Telecom Administration with all the information and materials it considers necessary.

Decisions by the Post and Telecom Administration under this Article may be referred to the Post and Telecommunications Resolution Committee or to a court of law as provided for in Article 13 of the Post and Telecommunications Act, No. 69/2003.

At three-year intervals, the Media Commission shall have a survey made of public access to television broadcasts and assess whether circumstances call for amendments to the provisions of Section VI regarding 'must-carry' and 'must-offer' obligations.

Article 47

Determination of consideration for transmissions.

If the parties do agree on this point, the Post and Telecom Administration may determine whether the electronic communications undertaking or the media service provider is to receive payment for the transmission, or the content, and the amount of these payments. When determining consideration for the transmission of television broadcasts, attention shall be given to the foundation and operating costs of equipment and services, depreciation and suitable return on capital invested, taking account of the investment risk. When calculating costs, the Post and Telecom Administration may take as a frame of reference the operation of a comparable service which is considered as being efficiently run and tariffs of charges on comparable competitive markets, and may use cost-analysis methods that are independent of those used by the electronic communications undertaking concerned. The Post and Telecom Administration may demand that the electronic communications undertaking produce a cost model for calculating its fee. When determining a fee for transmission, attention shall be given to factors including the bandwidth occupied by the television broadcast on the electronic communications network and the number of users of the service in question.

The Post and Telecom Administration may determine fees for various aspects of service associated with the transmission of television broadcasts and shall, when determining them, take account of the same considerations as regarding the transmission itself, as appropriate.

When determining consideration for television transmission in cases where the 'must-offer' obligation applies and where the electronic communications undertaking controls the access system, it

may be based on the cost of acquisition of the television content in question together with a suitable mark-up, or on a suitable discount from the price which the media service provider charges its own users.

A previously determined fee for transmission, or for television content, may be reviewed if either party so demands, citing reasons why it is necessary to reassess the fee.

SECTION VIII

Restriction of exclusive rights.

Article 48

Public access to coverage of important events.

It shall be possible to determine in a regulation that an audiovisual media service provider's exclusive right to broadcast coverage of events, domestic and foreign, which are considered as being of substantial importance in society may only be exercised in such a way that the majority of the population has an opportunity to observe the events in live or deferred transmissions without a special charge. The regulation shall contain an exhaustive and accurate list of the events to which the decision is intended to apply, and the decision regarding the events on the list shall be taken with good notice. Furthermore, the regulation shall contain provisions stating whether the specified events are to be shown in their entirety or in part in live transmissions, or in their entirety or in part in deferred transmissions, if this is considered necessary or convenient in terms of the needs of the public, and other matters on which it is considered necessary to make provisions.

A media service provider that acquires an exclusive right for Iceland and/or another EEA member state to broadcast coverage of an event listed in a regulation issued under the first paragraph of this Article shall immediately report this to the Media Commission, which shall monitor the application of measures under this Article.

If the holder of an exclusive right offers another media service provider a licence to broadcast audiovisual coverage of an event in order to fulfil its obligation under the first paragraph of this Article, it shall be offered for a reasonable consideration. In the event of a dispute regarding the consideration, either party may seek the decision of the Media Commission as to what is a reasonable consideration for the licence. The Media Commission shall assess the consideration with regard to what is regarded as a normal market price for the entitlement in question on a competitive market.

If court proceedings are instituted for the invalidation of a decision by the Media Commission under the third paragraph of this Article, the holder of exclusive rights shall nevertheless grant the media service provider in question a licence for the audiovisual transmission of coverage of the event in question providing that it submits a surety for the payment of the consideration which the Media Commission deems sufficient.

Article 49

Mutual recognition of the rules of EEA member states.

Media service providers which are subject to Icelandic jurisdiction may only exercise their exclusive right to broadcast coverage of events which another EEA member state has determined are of substantial importance in the society of that state in such a way that the majority of inhabitants of the state in question has the option of following the events on television without paying a special charge.

Exclusive rights shall be exercised in accordance with the rules of the EEA member state in question regarding the broadcast, in its entirety or in part, and live or deferred transmissions of coverage of the events.

The Media Commission shall monitor the application of measures under this Article.

SECTION IX

Liability, sanctions, enforcement, etc.

Article 50

Liability for audiovisual content.

If audio or audiovisual content contravenes the law, criminal and compensatory liability shall apply as follows.

- a. An individual who makes a statement in his own name, presents or conveys content that he has composed himself and/or conveys content composed by another party in accordance with his decision, shall be liable for it if he is domiciled in Iceland or is subject to Icelandic jurisdiction on other grounds.
- b. The purchaser of an audio or audiovisual commercial communication, irrespective of whether an individual or a legal person is involved, shall be liable for its contents if he is domiciled in Iceland or is subject to Icelandic jurisdiction on other grounds.
- c. In other cases, the content manager in question and/or the person liable for the media service provider shall be liable for the content made available.

Media service providers shall be liable for the payment of fines and compensation payments that their employees may be ordered to pay under this Article.

Media service providers shall be obliged to provide any persons who consider they are the victims of a violation as a result of the transmission of audiovisual content with information indicating who is liable for the content.

Article 51

Liability for textual content.

If textual content is in violation of the law, penalties and criminal and compensatory liability shall be as follows:

- a. An individual shall be liable for the content he writes in his own name or with which he clearly identifies himself if he is domiciled in Iceland or is subject to Icelandic jurisdiction on other grounds. If textual content is correctly quoted as being that of a named individual, the person quoted shall be liable for his own expressions if he gave consent for their being published or made available and he is either domiciled in Iceland or is subject to Icelandic jurisdiction on other grounds.
- b. The purchaser of commercial communications, whether an individual or a legal person, shall be liable for their content if he is domiciled in Iceland or is subject to Icelandic jurisdiction on other grounds.
- c. In instances other than those covered by items a and b above, the content manager in question and/or the person liable for the media service provider shall be liable for the content published.

Media service providers shall be liable for the payment of fines and compensation payments that their employees may be ordered to pay under this Article.

Media service providers shall be obliged to provide any persons who consider they are the victims of a violation as a result of the publication of text content with information indicating who is liable for the content.

Article 52

Prohibition on the transmission of audiovisual media content and the revocation of audiovisual media broadcasting licences.

The Media Commission may prohibit the transmission of audiovisual content that is considered contrary to the provisions of legislation.

The Media Commission may revoke audiovisual media broadcasting licences due to violations of the provisions of this Act, providing that the violations are serious and repeated.

Article 53

Per diem fines.

The Media Commission may impose *per diem* fines of up to ISK 200,000 for each commenced day on any party who:

- a. neglects to comply with a decision by the Media Commission regarding the submission of written information and other content under the first paragraph of Article 12;
- b. neglects to comply with a decision by the Media Commission regarding the submission of information from the books and accounts under Article 19;
- c. neglects to send the Media Commission the company's register of shareholders under the second paragraph of Article 22;
- d. neglects to send the Media Commission a report under Article 23;
- e. neglects to comply with a decision by the Media Commission regarding the obligation to publish replies under the fourth paragraph of Article 36 and the provision of content under the fifth paragraph of Article 36 and fail to discharge their obligation to have information accessible under the sixth paragraph of Article 36, or
- f. publishes or makes available content which the Media Commission has prohibited (*cf.* the first paragraph of Article 52);
- g. neglects to set rules on the editorial independence of those of its employees who are involved with news and news-related content under Article 24.

The Post and Telecom Administration may impose a *per diem* fine of up to ISK 200,000 for each commenced day on parties which:

- a. do not comply with the must-carry or must-offer rules under the second, third and fourth paragraphs of Article 46, or
- b. neglect to provide information or contents under the fifth paragraph of Article 46.

Decisions on *per diem* fines shall be announced in writing and in a verifiable manner to the party against whom they are made.

Article 54

Executive fines.

The Media Commission shall impose executive fines on legal persons in the event of violations of the following provisions:

- a. Article 14, to the effect that activities subject to a registration requirement may not be pursued without notification, that a person liable shall be identified, and/or that changes to the circumstances of parties subject to the obligation to make notifications are to be reported.

- b. Article 15, on the obligation to give notification of the intention to retransmit foreign audiovisual content.
- c. Article 16, to the effect that activities subject to a licence may not be pursued without a licence.
- d. The second paragraph of Article 19, regarding the separation of operations, bookkeeping and finances associated with the activities for which a licence is required from other operations, bookkeeping and finances.
- e. The first paragraph of Article 20, on changes to the circumstances of the licensee.
- f. Article 27, on criminal conduct.
- g. The first, second and third paragraphs of Article 28, on the protection of minors against harmful content.
- h. Article 29, on voice-overs and subtitling in Icelandic.
- i. Article 31, on obligations in terms of the public interest.
- j. Article 32, on the obligation of media service providers to identify themselves.
- k. Article 35, on the obligation to preserve media content.
- l. The first and fourth paragraphs of Article 36, on the right of reply.
- m. Section VI, on commercial communications and teleshopping.
- n. Article 49, on mutual recognition of the rules of EEA Member States.
- o. The first paragraph of Article 52, on the broadcasting or publication of content which the Media Commission has prohibited.
- p. Article 60, on unauthorised exploitation of media content.
- q. Article 61, on unauthorised access to audiovisual media content.

The Media Commission shall impose executive fines on both the seller and the purchaser if it is revealed that they have neglected to report a change of ownership of a share in a broadcasting station under the first paragraph of Article 22.

The Post and Telecom Administration shall impose executive fines on parties which violate the provisions of the fourth and/or the fifth paragraph of Article 45 regarding the must-offer obligation.

Fines under the first and third paragraphs of this Article may amount to up to ISK 10 million. When determining fines, consideration shall be given to factors including the seriousness of the violation and the revenues which the media service provider derived from it, where appropriate.

Fines may be waived if the violation is considered insignificant or if, for other reasons, it is not considered necessary to impose a fine. In such cases, the Media Commission may bring the case to a conclusion by issuing its opinion, which shall be published on its homepage.

The Media Commission may instruct that a decision be published, in its entirety or in part. Publication shall be effected in a manner, and to an extent, that can be considered fair. The party that committed the violation shall see to the publication and pay the cost thereof.

Article 55

Enforcement.

Decisions by the Media Commission under this Act shall constitute final resolutions at the administrative level and may not be the subject of administrative appeals. If a party is unwilling to accept a decision by the Media Commission, he may institute proceedings to have it invalidated. Proceedings shall be instituted within six months of the date on which the party was informed of the decision by the Media Commission. The institution of proceedings shall not defer the legal effects of the Media Commission's decision except under the circumstances described in the sixth paragraph of this Article.

Decisions by the Media Commission regarding executive and *per diem* fines shall be enforceable. Executive and *per diem* fines that are collected shall accrue to the State Treasury after deduction of the cost of their collection.

If executive fines are not paid within a month of the Media Commission's decision, arrears interest shall be paid on the amount of the fine. The determination and calculation of arrears interest shall be subject to the Interest and Indexation Act.

Executive fines shall be imposed irrespective of whether the violation is committed on purpose or through negligence.

Per diem fines that have not been collected shall not lapse even though the party complies at a later date with the obligations to which it was subject, unless the Media Commission makes a special decision to this effect.

If proceedings are instituted to have a decision on *per diem* fines under the first or second paragraph of Article 53 invalidated within 14 days of the date on which the media service provider concerned was informed of the decision, and if it also desires that the matter receive priority treatment, then *per diem* fines may not be collected until judgement has been passed. Notwithstanding the institution of proceedings for the invalidation of such a decision, *per diem* fines shall continue to be imposed on the media service provider in question.

Article 56

Sanctions.

The person liable for a media service provider, its employees or its directors, who commit, or cause others to commit, violations of the following provisions of this Act, shall be fined or imprisoned for up to six months if there is a high degree of culpability.

- a. Article 14, to the effect that activities subject to a registration requirement may not be pursued without notification, that a person liable shall be identified, and/or that changes to the circumstances of parties subject to the obligation to make notifications are to be reported
- b. Article 15, on the obligation to give notification of the intention to retransmit foreign audiovisual content.
- c. Article 16, to the effect that activities subject to a licence may not be pursued without a licence.
- d. The first paragraph of Article 19, on the income of media services providers and the second paragraph of Article 19, regarding the separation of operations, bookkeeping and finances associated with the activities for which a licence is required from other operations, bookkeeping and finances.
- e. The first paragraph of Article 20, regarding changes to the circumstances of the licensee.
- f. Article 25, on the protection of sources.
- g. Article 27, on criminal conduct.
- h. The first, second and third paragraphs of Article 28, on the protection of minors against harmful content.
- i. Article 29, on voice-overs and subtitling in Icelandic.
- j. Article 31, on obligations in terms of the public interest.
- k. Article 32, on the obligation of media service providers to identify themselves.
- l. Article 35, on the obligation to preserve media content.
- m. The first and fourth paragraphs of Article 36, on the right of reply.
- n. Section VI, on commercial communications and teleshopping.
- o. The fourth and fifth paragraphs of Article 45, on the must-offer obligation.
- p. Article 49, on mutual recognition of the rules of EEA Member States.
- q. The first paragraph of Article 52, on the broadcasting or publication of content which the Media Commission has prohibited.

- r. Article 60, on unauthorised exploitation of media content.
- s. Article 61, on unauthorised access to audiovisual media content.

If a violation is committed in the course of the operations of a legal person, it may be subjected to a fine under Section II A of the General Penal Code, No. 19/1940.

Article 57

Lodging of complaints with the police.

Violations of this Act shall only be investigated by the police following the lodging of a complaint by the Media Commission or, as appropriate, the Post and Telecom Administration.

If a violation of this Act involves criminal liability for both a natural and a legal person, the Media Commission or, as appropriate, the Post and Telecom Administration, shall decide whether, in view of the seriousness of the violation and law-enforcement considerations, the case is to be made the subject of a complaint to the police in part or in its entirety. If violations are serious, the Commission in question shall be obliged to refer them to the police. Consistency shall be observed in the handling of comparable cases.

Complaints to the authorities shall be accompanied by copies of the content on which the suspicion of a violation is based. The provisions of Sections IV-VII of the Administrative Procedure Act, No. 37/1993, shall not apply to decisions to submit complaints about cases to the police.

If a prosecutor considers there are not grounds for instituting proceedings for alleged criminal conduct which is also punishable by executive sanctions, he may send, or return, a case punishable under this Act, with the content associated with it, to the Media Commission or the Post and Telecom Administration, as appropriate, for treatment and a decision.

Article 58

Right to remain silent.

An individual who has the legal status of an accused person (questioned under caution) is not obliged to answer questions in cases which may be concluded by the imposition of an executive fine or a charge to the police under the Code of Criminal Procedure, No. 88/2008. The Media Commission or the Post and Telecom Administration, as appropriate, shall provide suspects with guidance regarding this right.

Article 59

Publication of judgments.

If a media service provider or other party who is liable for content under this Act is sentenced to a punishment, or comments are judged by a court to be null and void, or monetary compensation is awarded by a court judgement, it may be determined in the judgement, with *per diem* fines applying to non-compliance as requested by the injured party, that the court's summing-up and judgement be published (in the case of a text medium) or reported in programming (in the case of an audiovisual medium).

In the case of a text medium, the extract from the judgement shall be published in the same way as other content carried by the medium in question and in a conspicuous position; in the case of an audiovisual medium, it shall be reported when the numbers of listeners or viewers is greatest.

SECTION X

Miscellaneous provisions.

Article 60

Unauthorised exploitation of media contents.

Users of media service providers may not exploit their content in order to obtain revenues in any way, e.g. by recording content, publishing it or making it available by other forms of distribution, without obtaining permission from the owners of the rights in question.

Article 61

Unauthorised access to audiovisual media content.

It shall be prohibited to manufacture, deliver, rent, set up or repair a decoder, receiver or other equipment in order to give a party who has not paid the subscription fee or other required consideration access to a paid-access broadcast or on-demand audiovisual media content.

It shall be prohibited to use a decoder, receiver or other equipment in order to receive a paid-access broadcast or on-demand audiovisual media content without paying the subscription fee or other required consideration.

Article 62

Issue of regulations.

The Minister of Education, Culture and Science may issue regulations containing further provisions on the application of this Act, in its entirety or regarding individual sections thereof. Such regulations may, amongst other things, address the following aspects of the Act and elaborate on them.

- a. More detailed provisions on the activities of the Media Commission, including procedure under Section III of the Act.
- b. More detailed specifications under Section IV of the Act, including how media service providers are to register, the form and content of applications for licences for audiovisual media operations and how such licences are granted, how legally-prescribed notifications of amendments to operations and the operational basis of media service providers are to be made, including the form and content of announcements of changes in their ownership structure under Article 22; the form of information to be presented on the homepage of the Media Commission and information to be given under Article 23.
- c. Individual obligations and rights of media service providers under Section V of the Act, including the protection of minors against harmful content under Article 28 and the formal requirements concerning the right of reply under Article 36.
- d. Further details of individual types of commercial communications and teleshopping, including the conditions for exemption and deviations from the general rules of Section VI of the Act.
- e. Further specifications regarding application and procedure regarding audiovisual broadcasts under Section VII of the Act.
- f. Public access to coverage of important events under the first paragraph of Article 48 and mutual recognition of the rules of EEA member states under Article 49 of the Act.
- g. The form and imposition of *per diem* fines under Article 53, executive fines under Article 54, the revocation of licences under the second paragraph of Article 52 and the preparation of complaints to the police under Article 57.

The proposals of the Media Commission shall be obtained before issuing regulations. The comments of the Post and Telecom Administration shall also be obtained when further rules are set on the broadcasting of audiovisual content under item *e* of the first paragraph of this Article.

The Minister of the Interior may issue regulations containing further provisions on procedure and application regarding television broadcasts under Section VII. The proposals of the Post and Telecom Administration, and the comments of the Media Commission, shall be obtained before such regulations are issued. The Minister of the Interior may also issue regulations containing further details of how costs are to be determined in connection with consideration for transmission of

audiovisual content, including the methods used to evaluate assets, depreciation and yield on investment, and the production of costing models.

SECTION XI **Commencement, etc.**

Article 63

This Act implements the provisions of Directive 200/65/EC of the European Parliament and of the Council of 11 December 2007, amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities.

Article 64

Commencement.

This Act takes immediate effect. On its commencement, the Broadcasting Act, No. 53/2000, stands repealed.

Article 65

Amendments to other legislation.

On commencement of this Act, the following amendments to other legislation take effect:

1. *The Printing Act, No. 57/1956.*

- a. A new paragraph shall be added to Article 1, reading as follows:

This Act does not apply to publications that are regarded as media under the Media Act.

- b. Articles 9, 10, 14-22 and 31 of this Act shall be deleted.

2. *The Intellectual Property Rights Act, No. 73/1972.*

- a. A new paragraph shall be added to Article 15 of the Act, reading as follows:

If a broadcasting station broadcasts a short film sequence under the fourth paragraph of Article 48 of this Act, the broadcast may also include a work protected under this Act.

- b. Two new paragraphs shall be added to Article 48 of the Act, reading as follows:

If a broadcasting station which is protected under this Act transmits coverage of an event which arouses great interest among the general public on the basis of an agreement conferring an exclusive right to the broadcast, then without prejudice to the provisions of the first paragraph of this Article, other broadcasting stations that are established in the European Economic Area may transmit a short film sequence of their own choice covering the event in question. However, this authorisation shall only apply to the broadcast of such film sequences in ordinary news programmes. If a film sequence is shown on the basis of the authorisation of this paragraph, the name or other distinguishing mark of the broadcasting station holding the exclusive right shall be displayed if this is possible.

The conditions set by the broadcasting station that is party to the exclusive rights agreement for use under the fourth paragraph of this Article shall be just, fair and non-discriminatory, and shall be announced with suitable notice.

3. *The Telecommunications Act, No. 81/2003.* Article 55 of the Act shall be deleted.

4. *The Act on the Monitoring of Access by Minors to Films and Computer Games, No. 62/2006.*

- a. The second sentence of Article 4 of the Act shall read as follows: Assessment of the suitability for showing of television programme content other than that covered by item 2 of Article 1 shall be subject to the Media Act.

- b. The words “the Child Protection Agency” wherever they occur in Article 5 of the Act shall be replaced by “the Media Commission”.
5. *The National Broadcasting Service (Ríkisútvarpið ehf.) Act, No. 6/2007.*
- a. Item 2 of the first paragraph of Article 11 shall read as follows: Revenues from audiovisual commercial communications and the sale or hire of products and services associated with its programming. The aggregate revenues of the National Broadcasting Service from sponsorship shall, however, never be greater than the proportion of revenues from sponsorship in the combined revenues of the National Broadcasting Service from audiovisual commercial communications for the year 2006. The National Broadcasting Service may not sell advertisements for publication on the World Wide Web. Furthermore, product placement shall be prohibited in all programmes, whether these are in a linear or a non-linear audiovisual service. However, this prohibition on product placement shall only apply to content which the National Broadcasting Service has itself produced, or which has been produced on its behalf, or on behalf of an affiliated company.
- b. The first paragraph of Article 12 of the Act shall read as follows:
In areas not covered by this Act, the National Broadcasting Service shall be subject to the Limited Companies Act, No. 2/1995, with subsequent amendments, and the Media Act valid at any given time.
6. *The Commercial Practice and Marketing Monitoring Act, No. 57/2005.* The second paragraph of Article 2 of the Act shall read as follows:
Furthermore, this Act shall apply to contracts, conditions and actions of parties established in Iceland which are intended to have affect in a member state of the European Economic Area where what is involved constitutes a violation of the provisions of Sections III-V.

Interim Provisions.

I.

Without prejudice to the provisions of Article 64, radio and television licences issued under the Act No. 53/2000 which are valid at the commencement of this Act shall retain their validity for twelve months. During this time, media service providers covered by Article 16 shall have applied to the Media Commission for a renewal of their licences to provide audio or audiovisual media services. Temporary licences which were issued under the Act No. 53/2000 and which are valid at the commencement of this Act shall remain valid according to the terms stated in them. Media services providers operating services covered by Articles 14 and 15 shall notify the Media Commission of their activities within six months of the commencement of this Act.

The boards of proprietary limited companies (ehf.) and limited companies (hf.) shall send the Media Commission their latest registers of shareholders before 1 June 2011. Violation of this provision shall be punishable by *per diem* fines in accordance with item *c* of the first paragraph of Article 53.

II.

The Media Commission may call for currently valid contracts on the purchase of television content, in which case media service providers shall be obliged to comply with such requests. If a currently valid contract between a media service provider and a copyright holder which will remain in force for more than three years following the commencement of this Act does not permit the transmission of content over the telecommunications networks specified in Article 45, the media service provider shall enter into a new contract with the copyright holder authorising such broadcasting

within six months of the commencement of this Act. If no such contract can be made, the media service provider shall not be permitted to transmit the content after that time.

III.

The Minister of Education, Culture and Science shall appoint a committee to make proposals in the form of a bill on appropriate restrictions on the ownership of media. The committee shall consist of one representative of each group of parliamentarians representing a party in the Althingi at the time of its appointment. In addition, the minister shall appoint the chairman and deputy chairman of the committee; they shall have an expert knowledge of media matters. In the course of its work, and as appropriate, the committee shall take account of the premises and conclusions of the media committee which completed its duties by submitting a report in April 2005. The committee shall submit its proposals by 1 June 2011.

IV.

This Act shall be reviewed within three years of its enactment.

V.

Without prejudice to the provisions of Article 64, the Broadcasting Rights Committee shall carry out its work and attend to its supervisory functions as laid down in the Act No. 53/200 until the Media Commission has been appointed.

Done at Bessastaðir, 20 April 2011

Ólafur Ragnar Grímsson
(L. S.)

Katrín Jakobsdóttir.