

Terminological note on “program(me)”:

The Czech *program* is translated here as *programme*, although it may sometimes also mean a channel and although the English *programme* often also means *pořad*, i.e., an individual piece of what is program in Czech. (*Pořad* is translated here as *programme unit*).

The word *kanál* (channel) occurs twice in this Act, making it impossible to use *channel* for the Czech program and *programme* for the Czech pořad.

## UNOFFICIAL CONSOLIDATED TEXT

ACT No. 231/2001

of 17 May 2001

### on Radio and Television Broadcasting and on Amendment to Other Acts

#### AMENDMENTS:

Act No. 309/2002

Act No. 274/2003

Act No. 341/2004

Act No. 501/2004

Act No. 626/2004

Act No. 82/2005

Act No. 127/2005

Act No. 348/2005

Act No. 235/2006

Act No. 160/2007

Act No. 296/2007

Act No. 304/2007

Act No. 124/2008

Act No. 384/2008

Act No. 41/2009

Act No. 196/2009

Act No. 227/2009

Act No. 132/2010

Act No. 153/2010

The Parliament has enacted the following law of the Czech Republic:

## PART ONE

### GENERAL PROVISIONS

#### § 1

##### **Subject of regulation**

This Act transposes the relevant regulations of the European Union<sup>1)</sup> and regulates the exercise of state administration in the field of radio and television broadcasting.

#### § 2

##### **Definitions**

(1) In this Act:

- a) radio and television broadcasting means the provision of programme units and other broadcasts – arranged within a programme, including services directly related to the programme – by a broadcaster to the public via electronic communications networks<sup>1a)</sup> in a form protected or unprotected by conditional access<sup>1b)</sup> for the purpose of simultaneous listening/viewing of the programme units and other broadcasts,
- b) radio and television rebroadcasting means receiving the broadcasting of original radio and television programmes or of their substantial parts, including services directly related to the programmes or their substantial parts, and their simultaneous, complete and unchanged distribution for the public via electronic communications networks<sup>1a)</sup>; unchanged distribution also means the distribution of the Czech version of a television programme, which was primarily broadcast in a foreign language,
- c) nation-wide broadcasting means radio and television broadcasting of programmes, which can be received within a defined territory by at least 80% of the population of the Czech Republic according to the data resulting from the last census<sup>1c)</sup> in the case of radio broadcasting and by at least 70% of the population in the case of television broadcasting, unless otherwise provided by specific legislation<sup>1d)</sup>,
- d) programme network means joint preparation of programmes or of their substantial parts or mutual exchange of programmes or of their substantial parts or their simultaneous distribution by several broadcasters,
- e) regional broadcasting means radio or television broadcasting, which can be received within a defined territory by more than 1% and less than 80% of the population of the Czech Republic according to the latest census<sup>1c)</sup> in the case of radio broadcasting and by more than 1% and less than 70% of the population in the case of television broadcasting,
- f) local broadcasting means broadcasting of a radio or television programme intended, due to its reach, for a locally defined area and prepared for that area; the locally defined territorial area must not cover more than 1% of the population of the Czech Republic according to the latest census<sup>1c)</sup>,
- g) radio and television broadcaster means a legal or natural person that prepares a programme, including services directly related to the programme, determines the method of organising radio and television broadcasting, bears editorial responsibility for this broadcasting and uses a unique audio or visual identification, which guarantees no confusion in respect of the programme and services directly related thereto, to distribute the programme and the services directly related thereto by own means or through third persons (hereinafter referred to as “broadcaster”),
- h) rebroadcaster means a legal or a natural person that makes decisions on the composition of the programmes taken over from other sources, including services directly related to the rebroadcasting

programmes and that distributes such programmes and the services directly related thereto by own means or through third persons completely and without any change on the basis of retransmission consent (hereinafter referred to as "registration") pursuant to this Act,

- i) basic programme specification means the definition of prevailing genres in the over-all programme structure,
- j) programme means an intentional arrangement of individual radio or television programme units and other broadcasts, and, radio broadcasting, also the flow of programme elements. Other broadcasts include audio, visual or audiovisual parts of broadcasting, which are not programme units by their nature. They are inserted between programme units, or accompany or interrupt programme units, and include, without being limited to, advertising, teleshopping and the broadcaster's announcements concerning own programme units and ancillary products directly derived from such programme units, announcement of programme units, audio and visual means used to announce or separate commercial messages, and other programming punctuation;
- k) full-format programme means a television programme containing programme units with different focuses and on different themes, including, but not limited to, news, film, documentary, music and educational programme units, which are not aimed solely at a specific population group with compatible interests,
- l) programme unit in radio broadcasting means a part of broadcasting, which in terms of content, form and function constitutes a closed broadcasting unit or flow of programme elements and represents a separate item of a radio programme; programme unit in television broadcasting means a set of moving images with or without sound, which in terms of content, form and function constitutes a closed broadcasting unit and as such it represents a separate item of television programme,
- m) teletext means a service directly associated with a programme, which consists of the broadcasting of text or graphic information concurrently with the broadcasting of the television programme, while the aforementioned information can be only displayed on the screen of a television set equipped with appropriate decoding device,
- n) advertising means any public announcement broadcast in return for payment or a similar consideration, or broadcast for the broadcaster's self-promotion, in order to promote the supply of goods or provision of services, including immovable property, rights and obligations in return for payment,
- o) service directly related to a programme means a service consisting of distributing text, audio or visual information, which either individually or as a whole creates content related to a programme and which is intended to be received by the general public together with the programme; service directly related to a programme is also understood as being the creation and provision of data files for electronic programme guide content and the service that increases the programme utilisation options for the terminal equipment,
- p) electronic programme guide content means text, audio or visual information on programmes distributed in electronic communication networks<sup>1)</sup>, which information is transmitted by the same electronic communications networks and are synchronously connected to those programmes,
- q) surreptitious commercial communication means the oral or visual presentation of goods, services, the name, trade mark or activity of a producer of goods or provider of services, included by the broadcaster in a programme unit, if such a presentation intentionally follows an advertising objective and if it may mislead the public as to the nature of the presentation; such a presentation is considered as intentional when it is provided in return for payment or similar consideration,
- r) teleshopping means direct offer of goods, including real property, rights and duties, or services, which offer is meant for the public and which is included in radio or television broadcasting in return for payment or other consideration,

- s) sponsoring means any contribution made by a natural or legal person not engaged in the operation of television broadcasting, in the provision of an on-demand audiovisual media service<sup>1e)</sup> or the production of audiovisual works, to the direct or indirect financing of a radio or television programme or programme unit with a view to promoting the sponsor's personal name or business name, trade mark, products, services, activities or public image,
- t) subliminal communication means audio, visual or audiovisual information, which is intentionally manipulated to produce an influence on the subconscious of the listener or viewer without leaving a possibility to perceive it consciously,
- u) minimum programme range means a set of programmes, which is provided by a rebroadcaster at the lowest price,
- v) cable system means an electronic communications network pursuant to specific legislation<sup>1)</sup>, by which broadcasters or rebroadcasters distribute prepaid programmes for an agreed price; cable systems include cable television networks, microwave systems for terrestrial radio and television broadcasting or other technical equipment, except terrestrial radio transmission equipment,
- w) set of technical parameters means – in the case of analogue broadcasting via terrestrial radio transmission equipment using the radio frequencies reserved for the distribution and transmission of radio or television broadcasting (hereinafter referred to as “transmitters”) – the frequency, radiated power and site of transmission,
- x) repeated breach of an obligation means such breach as was penalised more than once during two consecutive calendar years,
- y) the territorial area of broadcasting means the whole territory of the Czech Republic for nation-wide broadcasting distributed through transmitters; for regional or local broadcasting distributed through transmitters it means the area set out in the authorisation for radio and television broadcasting (hereinafter referred to as the “licence”) in compliance with the opinion of the Czech Telecommunication Office, defined by:
  1. the set of technical parameters of transmission in the case of analogue broadcasting,
  2. the schedule of radio spectrum utilisation<sup>1a)</sup> in the case of digital broadcasting.

(2) Also in this Act,

- a) commercial communication means advertising, teleshopping and sponsorship, and in the case of television broadcasting it also includes product placement or another sequence of images with or without sound which are designed to promote, directly or indirectly, the goods, services or public image of a natural or legal person pursuing an economic activity. Such images accompany, or are included in, a programme in return for payment or for similar consideration or for self-promotional purposes.
- b) product placement means any form of the inclusion of a product, a service, or the trade mark thereof, or reference to a product or service, so that it is featured within a programme unit in return for payment or for similar consideration,
- c) editorial responsibility means the exercise of effective control over the selection of the programme units and other broadcasts and over their scheduling in the programme structure.

(3) The following shall not be regarded as radio and television broadcasting:

- a) provision of communication services focused on the delivery of information or other communications on the basis of individual requests,
- b) provision of an electronic communications network and provision of an electronic communications service pursuant to specific legislation<sup>1a)</sup>,

- c) distribution of radio and television programmes and services directly related to the programmes if such distribution serves solely to carry the signals protected by the system of conditional access to transmitters,
- d) communication of information related to the operation of technical means used for carrying out radio and television broadcasting.

(4) The distribution of radio programmes via transmission system described in Section 12(3)(c) shall not be regarded as radio broadcasting and rebroadcasting.

(5) The following shall not be regarded as television broadcasting:

- a) broadcasting not primarily of economic nature and not in competition with television broadcasting,
- b) broadcasting not intended for reception by the public,
- c) broadcasting whose principal purpose is not the provision of programme units and which, at the same time, does not constitute television broadcasting of programmes under Section 67(1) or (2), or
- d) broadcasting that cannot be received directly or indirectly by the public in Member States of the European Union with equipment technically capable of optionally or individually reproducing a television broadcast, which equipment is available in retail stores.

(6) Radio and television rebroadcasting shall not be considered to mean concurrent, complete and unchanged distribution of radio and television programmes, including services directly related to programmes, taken over from other sources, which are intended to be received by the general public via a cable system covering a maximum of 100 subscribers with receiving sets subject to mandatory reporting; this number may be exceeded if the subscribers to a joint reception system are located in a single building or in a complex of buildings belonging together in terms of space and function, provided that the signal transmission line does not cross a road and provided that such joint reception is not utilised commercially.

(7) The following shall not be regarded as programme network:

- a) an agreement of broadcasters on joint broadcasting of advertisements and teleshopping; or jointly preparing, or taking over from each other, such programme parts as are not significant from the point of view of their share in the total duration of broadcasting per day within the programme,
- b) broadcasting of programmes by two or more broadcasters on a shared spectrum basis.

### **Section 3** **Scope of the Act**

(1) This Act applies to:

- a) broadcasters that operate on the basis of specific legislation<sup>3),4)</sup> (hereinafter referred to as “statutory broadcasters”),
- b) broadcasters that operate on the basis of licence granted under this Act (hereinafter referred to as “licensed broadcasters”),
- c) rebroadcasters that operate on the basis of registration under this Act.

(2) As to legal or natural persons operating television broadcasting or television rebroadcasting without being among those referred to in Paragraph 1 above, this Act shall apply to them if such a legal or natural person can be regarded as established in the Czech Republic within the meaning of Paragraph 3 below, or if it meets the conditions specified in Paragraph 4 or 5 below.

(3) It shall be understood that a legal or natural person is established in the Czech Republic, if:

- a) its registered office or place of business<sup>4a)</sup> is in the Czech Republic and it makes decisions on the selection of programmes and other parts of broadcasts and the composition of the programme structure (hereinafter referred to as “editorial decisions”) in the Czech Republic, or
- b) its registered office or place of business is in the Czech Republic and it makes editorial decisions in another Member State of the European Union, provided that:
  - 1. a substantial part of the workforce of such a person carries out activities related to the operation of television broadcasting in the Czech Republic,
  - 2. a substantial part of the workforce of such a person carries out activities related to the operation of television broadcasting both in the Czech Republic and in another Member State of the European Union, or
  - 3. a substantial part of the workforce of such a person carries out activities related to the operation of television broadcasting neither in the Czech Republic nor in any other Member State of the European Union, provided that such a person first started operating television broadcasting in the Czech Republic under Czech law and maintains a stable and effective link with economic life in the Czech Republic, or
- c) its registered office or place of business is in the Czech Republic and it makes decisions on the composition of its television broadcasting in a state which is not a Member State of the European Union, or conversely, if a substantial part of the workforce of such a person carries out the activities related to the operation of television broadcasting in the Czech Republic.

(4) If it is impossible to consider a legal or natural person as established in the Czech Republic according to Paragraph 3 above, nor can it be considered as established in another Member State of the European Union or in any state which is a party to the European Convention on Transfrontier Television<sup>4b)</sup>, this Act shall apply to such a legal or natural person provided that such a legal or natural person uses in its television broadcasting or rebroadcasting activities:

- a) satellite up-link equipment located in the Czech Republic, or
- b) satellite capacity pertaining to the Czech Republic, if it does not use satellite up-link equipment located in the Czech Republic or in another Member State of the European Union or in a state which is a State-party to European Convention on Transfrontier Television.

(5) As to legal or natural persons operating television broadcasting or television rebroadcasting without being among those that can be regarded as established in the Czech Republic on the basis of Paragraph 3 above or in another Member State of the European Union, or in a state which is a State-party to the European Convention on Transfrontier Television, and without meeting in the Czech Republic or another Member State of the European Communities, or in a state which is a State-party to the European Convention on Transfrontier Television, any of the conditions set out in Paragraph 4 above, this Act shall apply to such a legal or natural person, provided that such a legal or natural person can be regarded as established in the Czech Republic in accordance with the Treaty Establishing the European Community<sup>4c)</sup>.

### **Section 3a**

#### **Prerequisites for participation in the procedure for the granting of the broadcasting licence and in the procedure for the granting of retransmission consent (registration)**

(1) To acquire a licence or registration, a legal person must meet the conditions specified for business activities in the Czech Republic as set out in specific legislation<sup>4d)</sup>. If such a legal person is a joint-stock company, a precondition for obtaining a licence is that its shares are registered shares.

(2) To acquire a licence or registration, a natural person must enjoy full legal capacity and meet the conditions required for business activities in the Czech Republic as set out in specific legislation<sup>4d)</sup>.

(3) If a person referred to in Paragraph 2 above is a foreign person<sup>4e)</sup> who/which does not have a subsidiary or residence in the Czech Republic, then such a person shall appoint its representative in the Czech Republic, who will be authorised to act on such a person's behalf in respect of matters regulated by this Act.

## PART TWO

### COUNCIL FOR RADIO AND TELEVISION BROADCASTING

#### Section 4

##### **Status of the Council for Radio and Television Broadcasting**

(1) The Council for Radio and Television Broadcasting (hereinafter referred to as “the Council”) with its seat in Prague is hereby established.

(2) The Council is an administrative authority which executes state administration in the field of radio and television broadcasting and rebroadcasting, and in the field of audiovisual media services provided on demand under another legal regulation<sup>1e)</sup>, and supervises the maintaining and further development of plurality in the programme portfolio and information offered in the field of radio and television broadcasting and rebroadcasting; it will promote the independence of the content thereof and fulfil other tasks laid down by this Act and by other specific legislation.

#### Section 5

##### **Powers and duties of the Council**

The Council shall:

- a) supervise compliance with legal regulations in the field of radio and television broadcasting and the conditions stipulated in the decision on granting the licence or in the decision on registration,
- b) grant, change and withdraw licences for the operation of radio and television broadcasting,
- c) grant, change and cancel decisions on registration to operate rebroadcasting,
- d) keep a register of broadcasters and rebroadcasters,
- e) publish on a regular basis – doing so in a manner facilitating remote access – a list of licence and registration applications, list of licences granted and changes thereto, and list of registrations granted and changes thereto,
- f) impose penalties under the present Act,
- g) monitor the content of radio and television broadcasting,
- h) grant consent to the Czech Telecommunication Office to issue individual authorisations to use radio frequencies for other radio communication services from spectrum bands exclusively reserved for radio and television broadcasting,
- i) require an opinion from the Czech Telecommunication Office containing co-ordinated frequencies for analogue radio and television broadcasting, including the technical parameters thereof; in its request for an opinion, the Council must indicate the area to be covered by the transmission and the requested location of the transmitter,
- j) require an opinion from the Czech Telecommunication Office in respect of the process of the awarding of licences for radio and television broadcasting or for changes to licence conditions<sup>1a)</sup>; in its request for an opinion, the Council must indicate the area to be covered by the transmission,
- k) set the territorial area of broadcasting for broadcasters under Section 3(1)(b) in compliance with the opinion of the Czech Telecommunication Office,

- l) work with the Czech Telecommunication Office to the extent set out in specific legislation<sup>1a), 3), 4)</sup>,
- m) prepare opinions and proposals, thus contributing to the development of principles of the government policy of the Czech Republic with regard to broadcasting and to the concepts of its future development, and with regard to enhancing media literacy,
- n) determine programmes and the services directly related thereto to be mandatorily distributed in public interest over electronic communications networks for radio and television broadcasting, review whether the mandatory distribution of such programmes is still necessary and submit to the Czech Telecommunication Office binding opinions in respect of the imposition or lifting of such mandatory distribution under specific legislation<sup>4f)</sup>,
- o) issue Statutes and Rules of Procedure of the Council and Organisation Rules of the Council Office,
- p) submit its draft budget and final financial statements to the Ministry of Finance and to the appropriate body of the Chamber of Deputies,
- r) publish Council resolutions, Council annual report, minutes of Council meetings (if not in contradiction with specific legislation), and other information as the case may be, using methods that facilitate for remote access,
- s) publish court rulings on judicial remedies and on law suits against Council decisions; this shall be without prejudice to the provisions of specific legislation<sup>5)</sup>,
- t) provide supervision in transborder co-operation schemes in compliance with the applicable legislation of the European Communities<sup>5a)</sup> within the scope of the specific legislation reflecting the guidance specified in Point 4 of the Appendix to the given regulation,
- u) cooperate with European Union authorities and with the regulatory bodies of EU Member States with a similar field of competence, focusing in particular on obtaining and providing data and information required by law, by decisions issued on the basis of law or decisions made on the basis of law, or by the legal acts of the European Union, and carry out other tasks resulting from the membership of the Czech Republic in the European Union,
- v) ensure that the obligations based on the European Convention on Transfrontier Television<sup>4b)</sup> are discharged and represent the Czech Republic on the Standing Committee established under Article 20 of the European Convention on Transfrontier Television,
- w) cooperate in the field of television broadcasting regulation with the relevant bodies of the states that are not Member States of the European Union or State-parties to the European Convention on Transfrontier Television,
- x) cooperate within the range of its competence with Czech legal persons whose activities include self-regulation in any of the fields to which this Act or specific legislation<sup>1e)</sup> apply, such self-regulation involving active participation of broadcasters, rebroadcasters or on-demand audiovisual media service providers (hereinafter referred to as “self-regulatory bodies”), provided that such cooperation is requested in writing by such a self-regulatory body, especially in developing effective self-regulatory systems and in implementing measures supporting media literacy; publish a list of the cooperating self-regulatory bodies (hereinafter referred to as “list of self-regulatory bodies”), using methods that facilitate remote access,
- y) issue opinions expressing the Council’s legal views in respect of matters within the range of its competence,
- z) carry out other tasks resulting from this Act or other legal provisions<sup>1e), 3), 4)</sup>.

## **Section 6**

### **Obligations of the Council**

(1) Every year the Council shall submit to the Chamber of Deputies an annual report on its activities and on the situation in the field of radio and television broadcasting and in the field of the



provision of on-demand audiovisual media services (hereinafter referred to as the “Annual Report”), which shall contain in particular the following information:

- a) updated register of broadcasters, rebroadcasters and on-demand audiovisual media service providers,
- b) information about the situation in radio and television broadcasting, in radio and television rebroadcasting and in the provision of on-demand audiovisual media services, including information on the procedure for the transition to digital broadcasting,
- c) information about the state of compliance with legal regulations in radio and television broadcasting and in the provision of on-demand audiovisual media services, and information about the sanctions that have been imposed,
- d) information about the results of audits dealing with the fulfilment of the obligations imposed by law on broadcasters, rebroadcasters and on-demand audiovisual media service providers and laid down by this Act, and information about compliance with the conditions stipulated for broadcasters and rebroadcasters,
- e) information about the licences that have been granted and about the criteria that have been used as the basis for granting the licences to applicants and for rejecting the applications of all other parties in the procedure,
- f) information about changes of licence conditions for licensed broadcasters,
- g) information about support to European production and European independent production, about securing the prescribed proportion of European production (Section 42) and independent production (Section 43) and about the reasons for not attaining the prescribed proportions in television broadcasting, as the case may be, including also information about support to the production of European works in the provision of on-demand audiovisual media services,
- h) information about the state and level of self-regulation in the fields of radio and television broadcasting, rebroadcasting and provision of on-demand audiovisual media services, and information about the results of cooperation with self-regulatory bodies,
- i) information about the level of media literacy in relation to new communication technologies and about the measures taken by radio and television broadcasters, rebroadcasters and providers of on-demand audiovisual media services and self-regulatory bodies to promote media literacy.

(2) By the end of February of each calendar year at the latest, the Council shall submit its Annual Report to the Chamber of Deputies for approval and simultaneously to the Prime Minister for expressing an opinion. At the same time, the Council shall make its Annual Report public in a manner facilitating remote access thereto. The Annual Report shall become public as at the date of its approval by the Council. The Annual Report must contain that date. The Chamber of Deputies is entitled to request the Council to provide explanations and additional information on the Annual Report. The Council shall provide such explanations and additional information within a reasonable period of time, which shall be determined by the Chamber of Deputies.

(3) In case that the Council repeatedly and seriously infringes the obligations laid down in Section 5 above and in Sections 6(1) and 6(2) above, or if the Annual Report fails repeatedly to be approved due to serious faults, the Chamber of Deputies may propose to the Prime Minister to remove the Council.

(4) The government and the state administration authorities shall cooperate with the Council in all matters related to broadcasting and shall in particular always request the opinion of the Council in the matters of broadcasting and provide appropriate assistance to the Council within the framework of their powers and duties.

(5) The Ministry of Culture (hereinafter referred to as “the Ministry”) may request the Council to provide the data necessary to meet the obligations resulting for the Czech Republic from international conventions<sup>4b)</sup> and/or from its membership in international organisations. The Council is obliged to provide such information to the Ministry.

## **Section 7 Council membership**

(1) The Council consists of 13 members who are appointed and removed by the Prime Minister based on proposal made by the Chamber of Deputies; the appointment shall be carried out immediately after receiving the proposal. Membership in the Council is a public service position.

(2) The term of office of Council Members is 6 years.

(3) Citizens of the Czech Republic can be elected members of the Council if they meet the following requirements:

- a) full legal capacity,
- b) permanent residence in the Czech Republic,
- c) minimum age of 25 years,
- d) integrity; this requirement is not considered as being fulfilled if the candidate has been convicted with finality for an offence committed in direct relation to the operation of radio or television broadcasting or rebroadcasting, or to the provision of on-demand audiovisual media services, or to publishing periodical press, or for any other wilful offence, unless such a conviction has been annulled or unless there is any other reason to consider such a person as not convicted; furthermore, the person fails to fulfil the requirement of integrity if he/she does not comply with the conditions laid down by specific legislation<sup>6)</sup>.

(4) A person who was in the capacity of Council Member during two consecutive terms of office, including incomplete terms, may not be nominated and appointed again to the same capacity.

(5) Council membership shall commence as at the date indicated in the letter of appointment.

(6) Council membership shall terminate

- a) with the expiry of the Council Member’s term of office,
- b) as at the date that immediately follows after the delivery of a letter of resignation to the Prime Minister,
- c) as at the date that immediately follows after the delivery of written decision of the Prime Minister on removal of the Council Member from his/her capacity, or alternatively as at the date indicated in the written decision on removal of the Council Member from his/her capacity,
- d) as at the finality date of a judgment depriving the Council Member of his/her legal capacity or limiting his/her legal capacity,
- e) as at the finality date of a judgement whereby the Council Member was found guilty of any of the offences listed in Article 7(3)(d),
- f) with the death or declaration of death of the Council Member.

(7) The Chamber of Deputies may propose to the Prime Minister to remove a Council Member from his/her capacity for the following reasons:

- a) if the functions pertaining to the capacity are not duly executed,

- b) if the prerequisites for assuming the capacity, as stipulated in this Act, are not fulfilled,
- c) if he/she commits such conduct that challenges his/her impartiality or independence or the impartiality of the Council.

(8) The Prime Minister shall suspend the office of any Council Member who has been taken into custody in connection with criminal prosecution, if such suspension is proposed by the Chamber of Deputies.

(9) The membership in the Council is incompatible with the capacity of the President of the Czech Republic, Deputy, Senator, Member of the Government, Judge, Public Prosecutor, Member of the Supreme Audit Office, Member of the Bank Council of the Czech National Bank, and with the membership in the Council of the Czech Press Agency, the Council of the Czech Television and the Council of the Czech Radio.

(10) Council Members shall execute their functions personally and they shall not accept any directions or instructions for the execution of their functions.

(11) Council Members shall not assume positions in political parties or movements and act in their favour.

(12) Neither Council Members nor persons closely related to them may assume any positions, including unpaid ones, in any bodies of companies that carry out business in the field of mass media, audiovisual production and advertising. Furthermore, neither Council Members nor persons closely related to them may participate in the business of commercial companies that carry out their activities in the field of mass media or in the field of audiovisual production and advertising, or provide directly or through mediation any consultancy or other assistance to broadcasters, rebroadcasters and on-demand audiovisual media service providers in return for payment. Council Members may not be employed or otherwise engaged by any broadcaster, rebroadcaster and on-demand audiovisual media service provider.

(13) If Council Members perform any paid employment or activity besides their capacity in the Council, they shall conduct such an activity in a way not threatening to affect their appropriate performance in their capacity as Council Members. Not even scientific, teaching, journalistic and artistic activities may be carried out by Council Members in a way which could damage or challenge the trust in the independence and impartiality of the Council.

## **Section 8**

### **Council meetings**

(1) Unless otherwise provided in law (Article 8(2) below), the Council shall have a quorum if an absolute majority of its members are present and if the Council Chairperson or one of the Vice-Chairpersons is simultaneously present.

(2) The Council's decisions shall be made by the absolute majority of votes of its members, except for the decisions on granting licences pursuant to Section 18, extension of licences pursuant to Sections 12(8) to 12(12), or on licence withdrawal pursuant to Section 63 or on registration cancellation pursuant to Section 64. In all such cases 9 votes of Council Members are required for a decision to be passed.

(3) Those Council Members, in respect of whom there are reasonable doubts suggesting that they might be biased with regard to their relation to the given matter, to the parties in the given procedure or to their representatives, shall be excluded from the Council's decision-making process relating to the matter concerned. Council Members shall notify the Council of any facts suggesting their exclusion from the procedure of considering a given matter and making a decision thereon, as

soon as they learn that such facts exist. The Council shall make its decision on the objection concerning bias without undue delay.

(4) In its actions and deliberations, the Council shall be governed by its Rules of Procedure, which shall stipulate in particular the system of voting and the way of recording and publishing the different opinions of Council Members, the procedures for the election and removal of the Council Chairperson and Vice-Chairpersons, as well as the rules for substituting the Chairperson.

(5) The voting shall be recorded; the record shall include information on how each individual Council Member voted.

(6) Council members shall keep confidential any information they may learn during the performance of their functions, if such information needs to remain secret even after the termination of Council membership in order to ensure that public administration is duly exercised or interests of other persons are duly respected. Council members are released from this obligation only for reasons stated in another Act or when the person whom the information concerns so agrees.

### **Section 9** **Council Chairperson and Council Vice-chairpersons**

(1) The Council shall elect its Chairperson and 3 Vice-Chairpersons from among its members.

(2) Council Chairperson shall manage the activities of the Council and act on its behalf.

(3) The Council may remove its Chairperson in the following cases:

- a) if he/she has not been discharging his/her office for more than 3 months, or
- b) if he/she fails to meet the conditions for being a Council Member, or
- c) if serious faults have repeatedly occurred in the performance of his/her functions.

(4) The Council Chairperson's service shall be terminated as follows:

- a) as at the date when his/her Council membership expires, or
- b) after expiration of the period for which he/she was elected, or
- c) as at the date immediately following the delivery of written decision on removal from the given position, or
- d) as at the date immediately following the delivery of letter of resignation to the Council, or
- e) due to death or declaration of death.

(5) During a period when the Council Chairperson is unable to officiate, the Council Vice-chairperson appointed by Council Chairperson shall substitute him/her; the provisions of Sections 9(3) and 9(4) shall apply *mutatis mutandis* to the removal of a Vice-chairperson from his/her position and to the termination of Vice-chairperson's service.

(6) If the Council Chairperson or a Council Vice-chairperson has been removed, the Council shall elect a new Council Chairperson or Vice-chairperson within 30 days from the date of such removal.

(7) The Council shall act in a similar way in the case of resignation or termination of the term of office of the Chairperson or any of Vice-Chairpersons.

**Section 10**  
**Occupational status of Council members**

(1) Unless otherwise provided by this Act, the provisions of the Labour Code shall apply to Council Members.

(2) Council Chairperson, Council Vice-Chairpersons and Council Members are entitled to receive salary and severance pay pursuant to specific legislation<sup>7)</sup>.

**Section 11**  
**Support and circumstances of Council activities**

(1) The Council shall manage its own budget pursuant to specific legislation<sup>8)</sup> and its activities shall be covered by a separate chapter of national budget of the Czech Republic.

(2) The tasks related to professional, organisational and technical support for the activities of the Council shall be carried out by Council Office. The Council Office is a body of the Council, and its activities are funded from the budget of the Council. Council Office employees have the status of civil servants pursuant to specific legislation<sup>8a)</sup>.

(3) The Head of Council Office shall be appointed and removed by the Council. The Head of Council Office shall report to Council Chairperson.

(4) Employment contracts with other Council Office employees shall be concluded by the Head of Council Office.

(5) Details and organisation of the activities of the Council shall be regulated by the Rules of Procedure of the Council.

(6) Employees engaged to work for the Council shall fulfil their obligation to respect confidentiality on the basis of the specific legislation<sup>9a)</sup> and, in addition, they shall keep confidential any information they may learn during the performance of their work even after the termination of employment. Employees engaged to work for the Council may be released from this obligation only on the basis of law or when the person whom the information concerns so agrees. This obligation also applies, *mutatis mutandis*, to natural persons working for the Council on the basis of legal relationships other than employment.

PART THREE

LICENCES

TITLE I

PROCEDURE OF GRANTING THE LICENCE FOR RADIO AND TELEVISION  
BROADCASTING DISTRIBUTED VIA TRANSMITTERS

**Section 12**  
**Licence**

Licences shall be granted by the Council in the licence granting procedure (hereinafter referred to as “licensing procedure”). A licence shall authorise the broadcaster to carry out radio and television broadcasting to the extent and under the conditions as laid down in this Act and in other legal regulations. A licence shall become valid as at the date of finality of the Council’s decision, with the exception of the case described in Section 18(2).

(2) Separate licences for the provision of services directly related to programmes shall not be awarded.

(3) The Council is authorised to grant a licence for broadcasting distributed via the following means:

- a) transmitters,
- b) satellites and cable systems,
- c) transmission systems not indicated under a) and b) above (hereinafter referred to as “special transmission systems”).

(4) There is no legal right to claim granting the licence, unless otherwise stated below.

(5) A licence shall be granted for a fixed period of time, whose maximum length is:

- a) 8 years for radio broadcasting,
- b) 12 years for television broadcasting.

(6) A licensed radio broadcaster shall start the broadcasting at the latest within 180 days and licensed television broadcaster within 360 days from the date of finality of the decision on the granting of the licence, unless otherwise provided in law.

(7) A licence is not transferable to any other person.

(8) If so requested by a licensed broadcaster, the Council will extend the validity of the licence. The period of licence validity may be extended once: for radio broadcasting it may be extended by a period of 8 years and for television broadcasting by a period of 12 years. If a licensed broadcaster so requests, the Council may extend the validity of the licence by a shorter period.

(9) The application to extend the validity of the licence, submitted by the licensed broadcaster, may also contain a request for approval of change of the company’s legal form. The Council shall grant the application if the legal form of the company is changed to joint-stock company with registered shares.

(10) A licensed broadcaster may request the Council in writing to extend the period of validity of the licence on which the broadcasting is based. The request shall be delivered to the Council within the following periods:

- a) in the case of nation-wide radio broadcasting: within the period between the beginning of the 36<sup>th</sup> month and the end of the 30<sup>th</sup> month remaining to the expiration of validity of the existing licence,
- b) in the case of nation-wide television broadcasting: within the period between the beginning of the 48<sup>th</sup> month and the end of the 42<sup>nd</sup> month remaining to the expiration of validity of the existing licence,
- c) in the case of local radio or television broadcasting: within the period between the beginning of the 36<sup>th</sup> month and the end of the 30<sup>th</sup> month remaining to the expiration of validity of the existing licence.

(11) The Council shall not extend the validity of the licence if the applicant does not meet the prerequisites under Section 13(3) or if the schedule for utilisation of the spectrum band dedicated to radio or television broadcasting has been changed with respect to an international treaty on frequency coordination and if such a change would substantially prevent the licensed broadcaster’s broadcasting. If the change in the schedule for utilisation of frequency range is not significant, the Council shall limit the non-extension of validity to only the licence part concerned.

(12) Further, the Council shall not extend the validity of the licence in the event that sanctions for serious breaches, as listed below, of the licensed broadcaster's obligations have been repeatedly imposed through an effective decision upon the licensed broadcaster:

- a) broadcasting of programme units that promote war or display cruel or otherwise inhumane conduct through its trivialisation, apology or approval,
- b) broadcasting of programme units inciting hatred relating to sex, race, colour, language, faith and religion, political or other views, national or social origin, nationality or ethnicity, property, birth or other status,
- c) broadcasting of programme units that gratuitously show persons dying or exposed to severe physical or mental suffering in a way that affects human dignity,
- d) broadcasting of subliminal communications,
- e) broadcasting of programme units that may seriously affect physical, mental or moral development of minors by displaying gratuitous pornography or brutal violence,
- f) transfer of share in the licensed broadcaster's company to third persons without prior consent by the Council, thus breaching the obligation laid down in Sections 21(6) and 21(7).

(13) Extension by the Council of the validity of a licence in accordance with Section 12(8) has the same legal effect as a decision by the Council to grant a licence. This is without prejudice to the provisions of Section 12(8).

### **Section 13** **Parties in licensing procedure**

(1) The parties in the licensing procedure are all licence applicants, whose applications were delivered to the Council within the period stipulated in the licensing procedure announcement as specified in Section 15(2).

(2) Licence application may be submitted by legal persons or natural persons that meet the conditions specified in Section 3a.

(3) An applicant for a licence shall be treated as meeting the prerequisites for participation in the licensing procedure provided that the following requirements are met:

- a) no bankruptcy was declared with regard to the applicant's property and no liquidation was initiated,
- b) evidence is provided that no unpaid tax is registered in taxation records,
- c) evidence is provided that no unpaid premiums for public health insurance, social security or contributions for the government employment policy are outstanding,
- d) the applicant's licence or registration has not been cancelled during the period of the last 5 years; this requirement does not apply to the cases where the licence or the registration was cancelled on the request of the broadcaster,
- e) no final judgment for wilful offence was declared with regard to the applicant; if a legal person requests granting a licence, this requirement shall also apply to the natural persons appointed as the governing body of the applicant or serving as members of the applicant's governing or supervisory body,
- f) the applicant is not a member of any statutory broadcaster or member in commercial companies established by a statutory broadcaster.

(4) Parties in the licensing procedure shall not be entitled to inspect the parts of the files concerning any other party. The Council shall take appropriate measures ensuring that the party in the licensing procedure cannot get acquainted with the data on the technical, organisational and financial background for broadcasting of other parties.

## **Section 14**

### **Licence application**

(1) A licence application shall contain the following essential information:

- a) for legal persons: registered company name, registered office, legal form, identification number (if applicable), name, surname and birth identification number of the person authorised to act on behalf of the legal person; if the licence applicant is a foreign legal person, the information shall also contain data on the location and identification of the subsidiary in the territory of the Czech Republic, the name, surname and birth identification number or the date of birth of subsidiary manager and his/her residential address; if a deputy was appointed the information shall also contain the deputy's name, surname and place of residence,
- b) for natural persons: name, surname, birth identification number (if applicable); if not applicable, then the date of birth; the residence address, proof of permanent residence in the territory of the Czech Republic; the company name, identification number (if applicable); if not applicable, then the date of start of business activities and the residence address. If the licence applicant is a foreign person the residence address outside the territory of the Czech Republic shall be specified together with residence address in the Czech Republic, provided that residence in the Czech Republic has been permitted; information must also be provided on the location and identification of the subsidiary registered in the Companies Register on the basis of specific legislation<sup>9b)</sup>, and the name, surname and birth identification number or the date of birth of subsidiary manager and his/her residential address; if a deputy is appointed, the name, surname and residential address of such a deputy must also be indicated,
- c) information pursuant to Sections 14(1)(a) or 14(1)(b) on all shareholders or members and persons who are the governing bodies or members of governing or supervisory bodies, if the licence applicant is a legal person,
- d) if the licence applicant is a legal person, it is required to present data on the amount of registered capital, shares of voting rights and capital contributions of shareholders or members, if they are mandatory, including the specification of the type and financial valuation of in-kind contributions,
- e) identification (name) of the programme,
- f) time schedule of broadcasting and the territorial area of broadcasting; in the case of broadcasting distributed via transmitters, the territorial area of broadcasting shall be determined in accordance with Section 2(1)(y); in the case broadcasting distributed via cable systems, the territorial area of broadcasting shall be determined by the enumeration of the cadastral areas and districts; in the case of broadcasting distributed via satellites or special transmission systems, the territorial area of broadcasting is not determined,
- g) basic specification of the programme, including information on the part of the programme retransmitted from another broadcaster and information on any services directly related to the programme,
- h) in the case of an applicant for operating television broadcasting: the proposed proportion of total broadcasting time to be reserved for the broadcasting of European works and European works produced by independent producers,
- i) the business plan, including documentary evidence of the funds the applicant is able to spend on radio or television broadcasting,
- j) in the case of television broadcasting: the main broadcasting language and an enumeration of the states where the broadcasting is to be generally or primarily directed.

(2) The essential data specified in Section 14(1) above shall be documented by the applicant by presenting the memorandum of association or memorandum of foundation, the statutes, list of



shareholders, extract from the Companies Register or any other such register dated not earlier than 3 months ago, and a residence document. The applicant shall also append to the licence application the letters of the relevant authorities dated not earlier than 3 months ago confirming that the licence applicant has no unpaid taxes registered in taxation records and that he/she is not liable to pay any overdue premiums for public health insurance, social security or contributions to the government policy of employment; if the applicant or a member of the applicant's governing or supervisory body is not a citizen of the Czech Republic, the application must also be accompanied by a proof of no criminal record or a similar document issued by a relevant body of the state of origin of the applicant or member of the applicant's governing or supervisory body, which document must be dated not earlier than 3 months ago.

(3) If the applicant is a broadcaster or a rebroadcaster with activities in the Czech Republic or abroad, or a publisher of periodical press in the Czech Republic or abroad, or a member in a company of another broadcaster or in a company publishing periodical press in the Czech Republic or abroad, similar information shall also be presented on such activities.

(4) During the licensing procedure the applicant shall immediately report to the Council any changes in the data indicated in the application that occurred after submitting the application.

(5) If the application does not contain the required details, the Council shall request, in writing, the party in the licensing procedure to complete the data within a reasonable period, which shall not be shorter than 15 days. In case the missing data are not submitted within the period specified by the Council, the application shall be rejected. The licensing procedure shall not be suspended during the period specified for completing the application.

## **Section 15**

### **Commencement of the licensing procedure**

(1) The Council will commence the licensing procedure on its own initiative or at the licence applicants' instigation by announcing the licensing procedure. Before commencing the licensing procedure, the Council shall request the opinion of the Czech Telecommunication Office on the definition of the territorial area of the broadcasting, doing so in the manner described in Section 15(2) below. Should the licensing procedure involve one or more licences to distribute one or more programmes solely by digital transmission, the Council shall also request from the Czech Telecommunication Office an opinion on the options for placement within the electronic communications networks. In the event that the licence applicant proposed to commence the licensing procedure, the Council must request the necessary opinions from the Czech Telecommunication Office within 15 days at the latest from the date when the licence applicant's proposal was received. The Council must announce the licensing procedure within 30 days at the latest from the date on which it received the Czech Telecommunication Office's opinion enabling the commencement of the licensing procedure. Should the Council request more than one opinion from the Czech Telecommunication Office for a given licensing procedure, the 30-day deadline for the announcement of the licensing procedure shall start running from the date on which the Council receives the last of the requested opinions, provided that the opinions enable to commence the licensing procedure.

(2) In its announcement of a licensing procedure, the Council shall set the deadline and location for submitting the requests for licences, the time schedule of the broadcasting, and the territorial area of the broadcasting determined by the set of technical parameters for analogue broadcasting or the schedule of radio frequency utilisation for digital broadcasting; for a licensing procedure in respect of nation-wide broadcasting, the Council shall set the requirements for the basic programme specifications of the nation-wide broadcasting (hereinafter referred to as the "requirements"). The licensing procedure announcement shall be published by the Council on the official notice board, at least in two national newspapers, and in a manner facilitating remote access.

(3) The Council shall reject licence applications delivered after the specified period and applications that are in contradiction with the announced requirements.

(4) A joint licensing procedure shall be in place in respect of applications delivered to the Council within the period specified in Section 15(2).

(5) If there are two or more electronic communications networks for digital broadcasting pursuant to Section 15(1), the Council shall commence the licensing procedure without allocating the programmes to specific electronic communications networks. Similarly, the Council shall determine no programme structure for individual electronic communications networks.

(6) To prove the applicant's integrity, the Council shall request from the Criminal Registry a no criminal record certificate on the basis of specific legislation<sup>9f)</sup>. The application for the no criminal record certificate, as well as the no criminal record certificate itself, shall be delivered in electronic form in a manner facilitating remote access.

## **Section 16**

### **Public hearing**

(1) If a licensing procedure involves broadcasting distributed via digital transmitters only, the Chairperson of the Council shall call a public hearing within 30 days of the date on which the deadline for the submission of applications for licences expires, such a deadline being set by the Council in accordance with Section 15(2). In all other cases the Council Chairperson shall call public hearings within a 90-day period from the date of commencement of the licensing procedure.

(2) The public hearing shall serve for discussing the issues relating to the programme structure proposed by the individual parties in the licensing procedure.

(3) A public hearing organised within the framework of the licensing procedure for broadcasting other than local television broadcasting must involve issues relating to the proportions of European works, European works produced by independent producers and contemporary European works in the proposed television broadcasting programme structure of the individual parties taking part in the television broadcasting licensing procedure.

(4) In the public hearing the parties in the licensing procedure shall propose the wording of licence conditions; if the licence is granted, these conditions shall be regarded as licence conditions pursuant to Section 18(4) below, with the exception of conditions pursuant to paragraph 18(4)(c), which shall be specified by the Council in agreement with the party in the licensing procedure in such a way that they are compliant with the opinion of the Czech Telecommunication Office.

(5) The invitation to public hearing, which shall be sent by the Council to all parties in the licensing procedure 14 days before the date of the public hearing at the latest, must contain the following information:

- a) venue and date of the public hearing,
- b) identification of all parties in the licensing procedure, including the addresses of their registered offices in the case of legal persons or residential addresses or current addresses or addresses of places of business in the case of natural persons,
- c) subject matter of the hearing.

(6) The information that a public hearing will take place shall be announced by the Council by displaying the invitation on the official notice board, through the mass media and in a manner that facilitates remote access; the announcement shall be made at the latest 14 days prior to the date of the public hearing.

(7) The public hearing shall be opened, chaired and closed by Council Chairperson or by another Council Member appointed by the Chairperson.

(8) Besides the invited parties in the licensing procedure only such persons as have obtained for that purpose an express consent of the Council Chairperson or of another Council Member appointed by the Chairperson may present contributions concerning the matters being discussed, submit written proposals or express their opinions at the public hearing.

(9) Information protected pursuant to specific legislation may not be subject to public hearing.

(10) An improper interference with the public hearing may result in an admonishment for the representatives of the public by the Council Chairperson or by the Council Member appointed by the Chairperson; repeated improper interference with the public hearing may result in ordering the offender out of the meeting room for a period not longer than until the end of the meeting day on which the offender was so ruled out.

(11) A sound record shall be made of the public hearing. In addition, minutes shall be taken of the public hearing. The minutes shall contain information on the course of the public hearing, participation therein, texts of contributions, written proposals and opinions. The minutes are public. Three days after the date of the public hearing the minutes shall be made available for inspection upon request at the seat of the Council.

## **Section 17**

### **Facts relevant to decisions on applications for licence granting**

(1) In the process of decision-making for granting the licence the Council shall assess the following facts:

- a) the financial, organisational and technical preparedness of the applicants for the broadcasting, including the results hitherto achieved by the applicant in the field of radio and television broadcasting, if the applicant has been active in this business,
- b) transparency of ownership relations in the applicant's company,
- c) benefits of the programme structure proposed by the licence applicant with regard to the existing diversity of radio or television programmes offered in the territory to be covered by the radio or television broadcasting,
- d) where the licence for television broadcasting is involved: the proportion of European production (Section 42), production of independent European producers and contemporary production (Section 43) in the proposed television broadcasting programme structure,
- e) the benefits the applicant will provide for the development of original production,
- f) for television broadcasting: the preparedness of the applicant to provide hidden or open subtitles in a certain percentage of the broadcast programme units intended for persons with impaired hearing,
- g) the benefits provided by the applicant for the development of the culture of ethnic and other minorities in the Czech Republic.

(2) During the distribution of licences for digital broadcasting, the Council shall assess the following:

- a) the financial, organisational and technical preparedness of applicants for the broadcasting; the transparency of their ownership structures; the benefits the programme make-up, proposed by the licence applicant, will bring to the diversity of the existing programme range; and the proportion of European production (Section 42), European independent production and contemporary production (Section 43) in the proposed television programme structure,
- b) the benefits the applicant will provide for the development of original production,

- c) the preparedness of the applicant to provide hidden or open subtitles in a certain percentage of the broadcast programme units intended for persons with impaired hearing,
- d) the benefits provided by the applicant for the development of the culture of ethnic and other minorities in the Czech Republic.

(3) A licence shall not be granted to an applicant whose licence was withdrawn or whose registration was cancelled during the past five years due to violation of law, or an applicant who was convicted with finality for a wilful offence.

### **Section 18** **Decision to grant a licence**

(1) The Council shall cast vote to make its decision on granting a licence. The voting on granting the licence shall take place at a Council meeting, which is closed to the public.

(2) Upon request by its founders or by the bodies or persons authorised to submit a proposal for registration in the Companies Register of a legal person with its registered office in the Czech Republic, it is possible to issue the decision on granting a licence prior to the registration of such a legal person in the Companies Register if it is documented that the legal person has been duly founded. The authorisation to broadcast will then be granted to such a person as at the date of registration in the Companies Register. A similar procedure shall be applied to the persons that do not have their registered office in the Czech Republic.

(3) The decision to grant a licence shall contain a statement to the effect that the licence is granted to one of the applicants and that the applications of other applicants have been rejected; furthermore, the decision shall contain a detailed substantiation, including the criteria on whose basis the licence was granted to the successful applicant and the applications of all other parties were rejected, as well as information on the instruments of appeal.

(4) The decision to grant a licence shall also contain the following information:

- a) identification of the licensed broadcaster, including the identification number provided by the Basic Registry of Persons<sup>9)</sup>,
- b) programme identification (name) and an indication of whether the programme is to be distributed on a nation-wide, regional or local basis,
- c) time schedule and territorial area of broadcasting,
- d) period for which the licence was granted,
- e) basic programme specifications and other programme conditions, including indication of whether it is a full-format programme and the conditions concerning the provision of services, if any, directly related to the programme; and for digital broadcasting also the conditions related to the broadcaster's obligation to create and provide data files for electronic programme guide content,
- f) the main broadcasting language and an enumeration of the states towards whose territory the broadcasting is to be directed wholly or mostly, where this is television broadcasting,
- g) geographical area for broadcasting in cable systems, determined by the information pursuant to Section 14(1)(f) (hereinafter referred to as "licence conditions").

(5) In justified cases the Council shall decide not to grant the licence to any of the applicants.

(6) In the framework of cross-border cooperation under Section 5(u), the Council shall forthwith notify the granting of a licence to the regulatory body of the Member State of the European Union referred to in the licence pursuant to Paragraph 4(f).

## **Section 19**

### **Decision to reject a licence application**

Complaint may be filed with a court within 30 days from the delivery of the decision on the basis of specific legislation<sup>9c)</sup> against the statement contained in the decision of the Council to reject an application for licence.

## **Section 20**

### **Change to the set of technical parameters and schedules**

(1) The Council may restrict the set of technical parameters of broadcasting of a licensed broadcaster or statutory broadcaster who, after commencing broadcasting, has not broadcast in the given area, or has not used the allocated frequency band effectively, for more than 90 days during the course of a calendar year; this period does not include periods when the failure to broadcast or to utilise the frequency band effectively is ascribable to technical problems.

(2) The Council may change the set of technical parameters for analogue broadcasting and the schedule of radio frequency utilisation for regional and local digital broadcasting on the basis of decisions taken by the Czech Telecommunication Office in accordance with specific legislation<sup>1a)</sup> in order to uphold the commitments arising from international treaties binding on the Czech Republic, which were promulgated in the Collection of Laws or Collection of International Treaties, or from memberships in the European Union or international organisations.

(3) The Council is not authorised to change the set of technical parameters or the radio frequency utilisation schedule without the broadcaster's consent in any way other than set out in Section 20(1) and 20(2) above, unless otherwise provided by specific legislation<sup>9d)</sup>.

(4) The Council will accommodate the written request from a licensed broadcaster for a change to the set of technical parameters for analogue broadcasting and radio frequency utilisation schedule for regional or local digital broadcasting, provided that the requested change does not lead to a breach of the commitments arising from an international treaty binding on the Czech Republic, which was promulgated in the Collection of Laws or Collection of International Treaties, or from memberships in the European Union or international organisations, or to a breach of specific legislation, and provided also that such a change complies with the opinion of the Czech Telecommunication Office, for which opinion the Council applied before implementing the changes. The Council will reject such a request if it appears that the requested change would cause the licence not to be granted on the basis of public hearing. The reasons for not giving the consent must comply with the criteria set out in Section 6(1)(e). The Council is obliged to make a decision on any change under this paragraph within 60 days of the date when the licensed broadcaster's request is received. If the Council has not issued a decision within this period, it shall be understood that the Council has given its consent to the change. The Council may suspend this procedure if there is a need to remedy faults in the request during the deadline period or if a preliminary question procedure has been commenced<sup>10)</sup>. In such cases the preliminary question concerned shall be indicated by the Council in its decision to suspend the procedure. The deadline periods shall not run during the period for which the procedure is suspended.

(5) Nation-wide broadcasters have no priority for a change in the set of technical parameters of broadcasting to meet the provisions of Section 2(1)(c).

## **Section 21**

### **Change to certain facts and change to licence conditions**

(1) A licensed broadcaster shall ask the Council in advance for written consent to any change in the following facts specified in the licence application:

- a) identification of programme name,
- b) change in the time schedule of broadcasting or the territorial area of broadcasting pursuant to Section 2(1)(y),
- c) change in the territorial area of broadcasting in cable systems,
- d) change to licence conditions,
- e) change in the amount of registered capital, in the key to the distribution of voting rights, in the capital contributions of members (including the specification of the type and financial valuation of in-kind contributions) and in the amount of their ownership interest, memoranda of association or foundation, statutes and lists of members or shareholders.

(2) Changes in other facts, specified in Sections 14(1) and 14(2), except for a change in the legal form of legal person, shall be announced by the licensed broadcaster to the Council, including submission of documents evidencing the approved changes, within 30 days from the date when the changes were made. Changes that are registered in the Companies Register shall be so announced, and the relevant documents submitted, within 30 days from the date of such registration.

(3) The Council shall make its decision on any change in the facts specified according to Section 21(1) within 60 days from the date when the licensed broadcaster's application was delivered to the Council. If the Council makes no decision within that period, it shall be understood that the change has been approved. The Council may only withhold its consent if it appears that the change would cause the licence not to be granted on the basis of public hearing. The reasons for withholding the consent shall correspond to the criteria specified in Section 6(1)(e). The basic programme specification may not be changed. The Council may suspend the procedure if it is necessary to eliminate faults in the application for change within the stipulated deadline period or if a preliminary question procedure has been commenced<sup>9)</sup>. In such cases the preliminary question concerned shall be indicated by the Council in its decision to suspend the procedure. The deadline periods shall not run during the period for which the procedure is suspended.

(4) Documents on the approved changes shall be submitted by a licensed broadcaster to the Council within 30 days from their implementation of the changes. In case of changes that are entered in the Companies Register, such documents shall be so submitted within 30 days from the date of such registration.

(5) The Council may also change the licence conditions if such a change is necessary to uphold the commitments arising from international treaties which are binding on the Czech Republic and were promulgated in the Collection of Laws and Collection of International Treaties, or commitments arising from membership in the European Union or international organisations.

(6) A licensed radio broadcaster, which is a legal person, or a member within such a legal person, may transfer to third parties a share in the licensed radio broadcaster company with prior consent of the Council. The consent may only be withheld if plurality of information pursuant to Sections 55 and 56 would be limited. The persons who were members in the legal person as of the date of issuance of the decision on granting the licence shall remain holders of at least 66% of the stock or 66% of voting rights for a period of 5 years from the date on which the licence was granted.

(7) A licensed television broadcaster, which is a legal person, or a member within such a legal person, may transfer to third parties a share in the licensed television broadcaster company with prior consent of the Council. The consent may only be withheld if the plurality of information under Sections 55 and 56 would be limited. The persons who were members in the legal person as of the date of issuance of the decision to grant the licence shall remain holders of at least 66% of the stock or 66% of the voting rights for the period of 5 years from the date on which the licence was granted.

(8) With a prior consent of the Council, a legal person or a natural person who is a member of more than one legal person – licensed broadcaster – with a 100% ownership interest may transfer these legal persons, or some of them, into a single successor company by merger or amalgamation, the successor company becoming either a public limited company or a limited liability company.

(9) A natural person who is a licensed broadcaster or a rebroadcaster may request that the licence or registration, which was awarded to it, be transferred to a legal person. The Council will grant the request only in the case that the natural person has a 100% ownership interest in such a legal person.

(10) With a prior consent of the Council, a licensed radio broadcaster may retransmit the programme of another licensed broadcaster, including the identification of such a programme, provided that this does not lead to a change in the basic programme specification. A licensed broadcaster may not retransmit the programme or programme parts of a statutory broadcaster.

## **Section 22**

### **Short-term licence**

(1) Through its decision, the Council may grant a short-term licence, including a licence for pilot broadcasting, for a period not exceeding 180 days. The application for a short-term licence shall contain information as specified in Section 14.

(2) The Council shall decide on granting a short-term licence within 60 days after the delivery of the application.

## **Section 23**

### **Reduced procedure**

(1) The Council shall use the reduced procedure, based on application without announcing licensing procedure, to make decisions on the following matters:

- a) extension of validity of the licence pursuant to Sections 12(8) to 12(12),
- b) approval of a change of the legal form of the company,
- c) granting a short-term licence to a single applicant.

(2) Within the framework of the reduced procedure, the Council shall decide on the applications in 60 days from the delivery thereof at the latest.

## **Section 24**

### **Expiry of the licence**

The licence shall lose validity:

- a) with expiration of the period for which it was granted,
- b) as at the date of dissolution of the legal person to which the licence was granted,
- c) with the death of the natural person to whom the licence was granted,
- d) as at the date of entry into force of the Council decision on withdrawal of the licence due to the reasons specified in Section 63,
- e) as at the date of finality of a judgment whereby the licensed broadcaster, who is a natural person, was convicted for a particularly serious offence or for an economic offence or an offence against property,
- f) on the date at which the licensed broadcaster requested the termination of broadcasting.

## TITLE II

### LICENSING PROCEDURE TO OPERATE RADIO OR TELEVISION BROADCASTING DISTRIBUTED VIA SATELLITES, CABLE SYSTEMS AND SPECIAL TRANSMISSION SYSTEMS AND TO OPERATE TERRESTRIAL DIGITAL RADIO OR TELEVISION BROADCASTING DISTRIBUTED VIA TRANSMITTERS

#### Section 25

(1) Licensing procedure for the operation of broadcasting distributed via satellites, cable systems and special transmission systems and for the operation of terrestrial digital broadcasting distributed via transmitters shall be started on the initiative of the licence applicant. Licensing procedure, as described in the first sentence, may not be started on the initiative of the Council itself. The licence applicant is the only party in the procedure.

(2) In addition to the general submission details and licence application details required by Section 14(1) to 14(4), the licence application shall also contain the following:

- a) written consent, issued by the person authorised to operate a cable network pursuant to specific legislation, to placing the licence applicant's programme in the cable network, if the programme is planned to be broadcast via the cable network and if the party in the procedure has no authorisation to build and operate a cable network,
- b) information on the states where it is possible to receive the programme and the specification of the satellite, if the programme is planned to be broadcast via satellite,
- c) identification of the transmission system and information about access to broadcasting, if the programme is planned to be broadcast via a special transmission system,
- d) information on how the broadcasting is to be supported technically, organisationally and financially, if the terrestrial digital television programme is planned to be distributed via transmitters.

(3) Within a period of 30 days from the commencement date of the licensing procedure, the Council shall order a verbal procedure with the party in the licensing procedure, wherein the party shall propose the programme structure. Minutes shall be taken of the verbal procedure.

(4) The decision on granting the licence shall contain a statement on the granting of the licence, the substantiation of the decision, and information on the instruments of appeal.

(5) The Council may only refuse to grant the licence to an applicant if the applicant fails to fulfil the conditions specified in Section 13(3), or if the proposed programme structure does not meet the requirements specified in Sections 31 and 32(1), or if it appears that the granting of the licence would contravene the obligations arising from an international treaty binding on the Czech Republic, which was promulgated in the Collection of Laws or Collection of International Treaties.

(6) Provisions of Section 13(1), 15, 16, 17(1), 17(2), 18(3) and 18(5) do not apply to the licensing procedures under Section 25(1) to 25(5).

## PART FOUR

### REGISTRATION



## **Section 26**

### **Registration (Retransmission consent)**

(1) Registration authorises a rebroadcaster using electronic communications networks to operate rebroadcasting via the relevant electronic communications network, except broadcasting distributed via terrestrial radio transmission systems. This shall be without prejudice to obligations under special legal regulations.

(2) There shall be a legal right to claim registration if the conditions specified in Sections 27 to 28a are satisfied.

(3) Registration shall commence as at the date when the Council's decision on registration becomes effective.

## **Section 27**

### **Application for registration**

(1) An application for registration shall be submitted at least 60 days prior to the planned start of rebroadcasting.

(2) The application for registration must contain the data specified in Section 14(1)(a) to (f), a description of how the broadcasting is to be supported technically, organisationally and financially, information on the programmes planned to be distributed by the applicant and identification of the electronic communications network via which the rebroadcasting is to be distributed, and information on access to the rebroadcasting. A document that proves the authorisation on the basis of which the programme is originally broadcast must be attached to the application for registration. If the programme is originally broadcast on the basis of an authorisation issued in a Member State of the European Communities or in a State-Party to the European Convention on Transfrontier Television, the following information shall only be attached to the application for registration:

- a) the name of the programme,
- b) the basic programme specification,
- c) the date of issue of the authorisation on the basis of which the programme is originally broadcast, and the period of validity of the authorisation,
- d) information on the regulatory body that issued the authorisation on the basis of which the programme is originally broadcast.

(3) If the applicant or a member of the applicant's governing or supervisory body is not a citizen of the Czech Republic, the application must also be accompanied by a proof of no criminal record or a similar document issued by a relevant body of the state of origin of the applicant or member of the applicant's governing or supervisory body, which document must be dated not earlier than 3 months ago.

## **Section 28**

### **Provisions on the registration procedure**

(1) The registration procedure shall commence once the written application is delivered to the Council. If the application fails to contain the details required pursuant to Section 27(2) or if the information is incomplete, the Council shall immediately (no later than 15 days from the delivery of the application to the Council) grant the applicant a period to correct the faults.

(2) The Council shall reject registration in the event that the faults in the application are not corrected within the period granted.

(3) The Council shall decide on the application for registration within 30 days from the date of its delivery to the Council. If the Council does not decide on the application for registration within the period specified in the preceding sentence, the applicant shall be registered as at the date immediately following the date of expiry of the specified period; the Council shall issue a certificate for the applicant to this effect.

(4) The Council shall reject the application for registration in the following cases:

- a) a licence has been withdrawn from the applicant or the applicant's registration has been cancelled due to violation of law during the period of the last five years, or
- b) the applicant was found guilty of a wilful offence; if the applicant is a legal person, this requirement shall also apply to the natural persons appointed as governing body of the applicant or serving as members of the applicant's governing or supervisory body, or
- c) it appears from the application that the rebroadcasting would cause infringement of legal regulations.

(5) On the basis of specific legislation<sup>9)</sup>, the Council will request a proof of no criminal record to prove the applicant's integrity. The request for the proof of no criminal record as well as the proof of no criminal record itself shall be delivered electronically in a manner allowing for remote access.

#### **Section 28a** **Specific conditions for rebroadcasting via transmitters**

(1) The transmission capacity of the electronic communications network used by a rebroadcaster for distribution via transmitters must be made available to any broadcaster that entered into an agreement with the undertaking providing the electronic communications network, the subject matter of such an agreement being the distribution of broadcasting service through that network.

(2) Should a rebroadcaster fail to make the electronic communications network transmission capacity available as set out in the preceding paragraph 1 within 90 days from the date of delivery of a notice to that effect from the broadcaster, the Council shall, within 5 days of the receipt of a request to that effect from the broadcaster, urge such a rebroadcaster in writing to make the transmission capacity available.

(3) Rebroadcasting via transmitters shall not be considered, for the purposes of announcement of a licensing procedure, as impediment limiting the possibilities for placement within the electronic communications networks under Section 15(1).

#### **Section 29** **Change in registration**

(1) The rebroadcaster shall report to the Council in advance any changes in the following facts, specified in the application for registration:

- a) contributions of individual members, amounts of their ownership interests and the system of distribution of voting rights,
- b) list of shareholders (members),
- c) change to the programme range offered, if the change relates to a rebroadcast television programme retransmitted by a television broadcaster from a state which is not a Member State of the European Union or state-party to the European Convention on Transfrontier Television, or a rebroadcast radio programme retransmitted by a radio broadcaster from a state other than the Czech Republic,
- d) territorial area of broadcasting.

(2) A change may only be made once it is registered by the Council.

(3) Changes in other facts specified in the application for registration shall be announced by the rebroadcaster to the Council within 15 days from the date when the changes occurred.

(4) The provisions of Sections 28(1) to 28(3) shall apply *mutatis mutandis*.

### **Section 30** **Registration termination**

(1) Registration shall terminate:

- a) as of the day of dissolution of the legal person which was registered,
- b) with the death of the natural person who was registered,
- c) with the Council's decision to cancel the registration due to the reasons specified in Section 64,
- d) by cancellation of registration upon request by the rebroadcaster,
- e) as of the finality date of a court judgment, whereby a rebroadcaster who is a natural person was convicted with finality for a particularly serious offence or for an economic offence or an offence against property.

(2) Should a rebroadcaster using transmitters fail to make available the electronic communications network transmission capacity within 3 days from the date of delivery of a written notice from the Council under Section 28a(2), the registration of such a rebroadcaster shall lapse with the expiry of the 3-day period.

## **PART FIVE**

### **RIGHTS AND OBLIGATIONS OF BROADCASTERS AND REBROADCASTERS**

#### **TITLE I**

#### **RIGHTS AND OBLIGATIONS IN PROGRAMME BROADCASTING**

### **Section 31** **Programme content**

(1) A broadcaster and rebroadcaster shall be entitled to broadcast programmes in a free and independent manner. Any intervention in the contents of the programmes is only admissible on the basis of law and within the limits thereof.

(2) A broadcaster shall provide objective and balanced information necessary for opinions to be freely formed. Any opinions or evaluating commentaries shall be separated from the information having the nature of news.

(3) A broadcaster shall ensure that principles of objectivity and balance are complied with in news and political programme units and that, in particular, no one-sided advantage is – within the broadcast programme as a whole – given to any political party or movement, or to their views, or the views of any groups of the public, taking account of their real position within the political and social life.

(4) A statutory broadcaster shall prepare its programme structure so as to provide, in its broadcasting, a well-balanced portfolio offered to all the population with respect to their age, gender,

colour of the skin, faith, religion, political or other opinions, ethnic, national or social origin, and membership of a minority.

(5) Broadcasting provided by a radio or television broadcaster may also include programme units, programme elements and other broadcasts, particularly advertising and teleshopping, with content varying between regions. Nation-wide broadcasting with no programme units and other broadcasting parts, programme elements and advertising with regionally varying content should be provided by a licensed nation-wide radio and television broadcaster for at least 85% of the weekly broadcasting time.

## **Section 32**

### **Basic obligations of broadcasters and rebroadcasters**

(1) A broadcaster shall

- a) operate the broadcasting in its own name, for its own account and at its own responsibility, and bear responsibility for the content of broadcasting,
- b) ensure that the broadcast programme units do not promote war or show brutal or otherwise inhumane behaviour in a manner which would involve its trivialisation, apology or approval,
- c) ensure that the broadcast programme units do not arouse hatred for reasons relating to gender, race, colour of the skin, language, faith and religion, political or other opinions, national or social origin, membership of a national or ethnic minority, property, birth or other status.
- d) ensure that the broadcast programme units do not contain subliminal communications,
- e) not include in the broadcasting any programme units that may seriously affect the physical, mental or moral development of minors by, in particular, involving pornography and gross violence as an end itself,
- f) avoid showing, without justification, dying people or people exposed to severe physical or mental suffering, doing so in a manner detrimental to human dignity,
- g) avoid including in the programme during the period of 06,00 h to 22,00 h any programme units and announcements which might endanger the physical, mental or moral development of minors; this obligation shall not apply to broadcasters where broadcasting to the end user is available under a written contract concluded with a person aged over 18 years and is accompanied by the provision of a technical measure which allows that person to restrict minors' access to broadcasting;
- h) ensure that the radio and television broadcasting of any programme unit to which the restriction referred to under letter g) above applies is immediately preceded by a verbal warning of the unsuitability of the programme unit for minors and that any programme unit that might endanger the physical, mental or moral development of minors shall be labelled, in the case of television broadcasting, with a pictorial symbol warning of the unsuitability of the programme unit for minors; such a symbol shall remain on the screen throughout the time of broadcasting,
- i) ensure that its programmes do not include programme units that could promote prejudicial stereotypes of ethnic, religious or racial minorities,
- j) ensure that its programmes do not include programme units and advertisements that contain vulgarisms or swearing, except for artistic spots where it is necessary considering the context; such programme units or advertisements may only be broadcast between 22.00 h and 06.00 h of the following day,
- k) in urgent public interest, if so requested by the State authorities and the local public administration authorities, provide such authorities with the broadcasting time needed for important and urgent announcements to promulgate the state of emergency or state of threat to the State, to proclaim the state of war or to announce measures for the protection of public health; responsibility for the contents shall be borne by those to whom the broadcasting time was provided,

- l) maintain records of all programme units, including other broadcasts, at the quality level at which they were broadcast, for a period not shorter than 30 days from the date of broadcasting and lend them to the Council upon the Council's written request; the broadcaster shall be entitled to compensation, by the Council, for the necessary costs associated with the lending of the records of the programme units and other broadcasts,
- m) if as a result of the broadcasting of a certain programme unit or other broadcasts a procedure is initiated before a public authority, the broadcaster shall, if so requested by the relevant public authority, maintain a record of the programme unit, or other broadcasts, in the form in which they were broadcast and at a good technical quality until such a procedure is terminated by a final decision,
- n) indicate the mark of the television programme (logo) in television broadcasting, except for the broadcasting of advertising and teleshopping,
- o) identify the radio programme at least once in an hour, provided that such identification does not affect the coherence of the programme unit being broadcast,
- p) notify the Council of any technical obstacles which hinder the broadcasting,
- r) ask the Council in advance to provide its consent to any interruption of broadcasting for any reason other than shown under letter p) above,
- s) notify the Council about the commencement or termination of the broadcasting of a programme and any service directly related to the programme, and also notify the Council about the electronic communications network<sup>1a)</sup> via which the programme is transmitted digitally, and do so no later than on the date of commencement or termination of the broadcasting; the Council shall make this information public in a manner that enables remote access.

(2) A nation-wide licensed television broadcaster shall provide hidden or open captions for the hard of hearing in at least 15% of the programme units it broadcasts, and make at least 2% of the programme units accessible to visually impaired persons. A nation-wide statutory television broadcaster shall provide hidden or open captions for the hard of hearing in at least 70% of the programme units it broadcasts, and produce at least 2% of the broadcast programme units in the Czech sign language or interpret them into the Czech sign language for the hard of hearing, and make at least 10% of the programme units accessible to visually impaired persons.

(3) A rebroadcaster may distribute a programme containing programme units or other broadcasts that might endanger the physical, mental or moral development of minors if this is done under the conditions set out in Section 32(1)(g); the minimum programme range offered shall not include any programme consisting primarily of programme units that might endanger the physical, mental or moral development of minors.

(4) A rebroadcaster that retransmits a television programme of a television broadcaster from a state which is not a Member State of the European Union or a State-party to the European Convention on Transfrontier Television, or a radio programme of a radio broadcaster from a state other than the Czech Republic, shall not be entitled to distribute any programme that contains:

- a) any programme units or other broadcasts that are broadcast in contravention of the provisions of Section 32(1)(b,c,e,f),
- b) any programme units or other broadcasts that might endanger the physical, mental or moral development of minors, if they are broadcast in contravention of the provisions of Section 32(1)(h).

(5) The obligations set out in Section 32(1) with respect to programme units shall also be met by the broadcaster with respect to any other broadcasts, unless otherwise provided by law.

(6) A broadcaster and rebroadcaster shall, if so requested in writing by the Council, provide the Council with the opinions and information necessary for it to exercise its authority under Section 5(t) to (w) or Section 6(1) and (5).

(7) A television broadcaster shall ensure that viewers have easy, direct and permanent access in particular to:

- a) essential information about the broadcaster, including the name or registered company name, identification number (if applicable), address of the registered office if the broadcaster is a legal person, or residence address if the broadcaster is a natural person; if the broadcaster is a foreign legal person, the information shall also contain the address of the undertaking or organisation unit, if any, in the territory of the Czech Republic,
- b) information enabling prompt, direct and effective communication with the television broadcaster, including, in particular, the postal address, telephone number and possibly also electronic mail address, and
- c) information that the Council is the body that oversees the operation of television broadcasting.

### **Section 33**

#### **Obligations of broadcasters in the broadcasting of events of major importance for society**

(1) A television broadcaster may not exercise any exclusive rights in respect of the broadcasting of any event of major importance for society in a manner that would deprive a substantial part of the public in the Czech Republic of the possibility of following that event via live coverage or via deferred coverage in nation-wide television broadcasting in non-encrypted form without any special charge.

(2) If an event of a major importance for society is – because of its nature – broadcast both live and via deferred coverage, then such broadcasting shall represent a purposefully arranged and coherent whole. Broadcasting of an event of a major importance for society only via deferred coverage (and not live) may only take place if there simultaneously is a live coverage of another event for which the broadcasting of the record of the deferred coverage had to be delayed.

(3) An event of major importance for society may be any event on the List of Events of Major Importance for Society, issued as public notice by the Ministry upon consultation with the Council.

(4) Also treated as an event of major importance for society shall be any event declared as an event of major importance for society by any of the Member States of the European Communities and announced as such in the European Communities Official Journal. A television broadcaster may not exercise exclusive rights in respect of the broadcasting of any event of major importance for society announced in the Official Journal of the European Communities in a manner which would, in contravention of the legal regulations of the Member State of the European Communities where such an event was declared to be of major importance for society, deprive a substantial part of the public in that Member State of the possibility to follow that event via live coverage or via deferred coverage on a freely accessible television programme. The List of Events of Major Importance for Society, as published in the Official Journal of the European Communities, shall be made public in a manner that enables remote access.

(5) Also treated as an event of major importance for society shall be any event declared as an event of major importance for society by any of the Member States of the Council of Europe and announced as such by a respective body of the Council of Europe in a manner defined in a relevant international treaty (hereinafter referred to as “event made public by a body of the Council of Europe”). A television broadcaster may not exercise exclusive rights in respect of the broadcasting of any event made public by a body of the Council of Europe in a manner which would, in contravention of the legal regulations of the Member State of the Council of Europe where such an event was declared to be of major importance for society, deprive a substantial part of the public in that Member State of the possibility to follow that event via live coverage or via deferred coverage on a freely accessible television programme. The List of Events made public by a body of the Council of Europe shall be made public in a manner that facilitates remote access.

## **Section 34**

### **The broadcasting of short extracts**

(1) A television broadcaster that has acquired exclusive broadcasting rights for an event classified as being of high interest to the public (“event of high interest to the public“) shall provide access to the transmission signal for other television broadcasters established in the Member States of the European Union, if they so request, or provide them with a recording of such an event, for the purpose of making short extracts of their own choice to be included in their general news programme units. If exclusive broadcasting rights for an event of high interest to the public are acquired by a television broadcaster based in the Czech Republic, the remaining television broadcasters based in the Czech Republic shall address the request referred to in the first sentence to such a television broadcaster.

(2) The duration of a short news extract within a general news programme shall not exceed 90 minutes. A short news extract shall contain identification of the source from which it was taken, unless this is impossible for reasons of practicality.

(3) A short news extract, provided as referred to in Section 34(1) above, may be used in on-demand audiovisual media services if the news programme unit, in which the extract is included, is offered on a deferred basis by the same television broadcaster that has broadcast it.

(4) A general news programme unit is a programme consisting of news, reports and interviews focusing on the current course of events in internal and foreign politics, culture, public life, crime or sports, including a special news block, which regularly follows after such a programme unit.

(5) A television broadcaster that has acquired exclusive broadcasting rights for an event of high interest to the public shall lay down the terms under which other television broadcasters can have access to the transmission signal or can acquire a recording of the event (hereinafter referred to as the “accreditation terms). Such terms shall be communicated well in advance of the event in a manner that enables remote access. The accreditation terms shall be fair, reasonable and non-discriminatory. For the provision of access to the transmission signal or delivery of a recording of an event of high interest to the public, the television broadcaster that has acquired exclusive broadcasting rights for such an event may charge an amount equal to the additional costs directly related to the provision of access to the signal or delivery of the recording.

## TITLE II

### PROTECTION OF PERSONS AFFECTED BY THE CONTENTS OF RADIO OR TELEVISION BROADCASTING

#### **Section 35**

##### **Right of reply**

(1) If any announcement containing any factual information affecting the honour, dignity or privacy of a natural person or the good name or reputation of any legal person was made public in radio or television broadcasting, then such a natural person or legal person shall have the right to request that a reply be broadcast by the radio or television broadcaster. The radio or television broadcaster shall broadcast such a reply upon such a natural person’s or legal person’s request.

(2) The reply shall be limited to a factual assertion by which any assertion referred to in Paragraph 1 above is rectified or by which any incomplete or otherwise distorting assertion is complemented or put more precisely. The reply shall be adequate to the extent of the announcement concerned; if the reply only applies to a part of such an announcement the reply shall be adequate to the extent of such a part. The reply shall also indicate by whom the reply is made.

(3) The natural person or legal person upon whose request a reply was broadcast by the radio or television broadcaster under this Act may not request that a further reply to such a reply be broadcast.

(4) Upon the death of the natural person, the right referred to in Paragraph 1 above shall be held by such a person's spouse and minors and, if there are no spouse and minors, then such a right shall be held by such a person's parents.

(5) Provisions of a special legal regulation on the protection of personality and on the protection of the good name or reputation of legal persons shall remain unaffected by the provisions referred to Sections 35(1) to (4).

### **Section 36** **Additional announcement**

(1) If the radio or television broadcasting makes public any announcement of criminal proceedings or proceedings in respect of petty offences which proceedings were taken against a natural person, or proceedings in respect of administrative offences, which proceedings were taken against a natural person or legal person, whereby the natural person or legal person can be identified from such an announcement, and if such proceedings have not been terminated by a final decision, then such a person shall have the right to request that information on the result of such proceedings be broadcast as an additional announcement by the broadcaster. The broadcaster shall broadcast information on such a final decision as additional announcement upon such a person's request.

(2) Upon the death of the natural person, the right referred to in Paragraph 1 above shall be held by such a person's spouse and minors and, if there are no spouse and minors, then such a right shall be held by such a person's parents.

(3) Provisions of a special legal regulation on the protection of personality and on the protection of the good name or reputation of legal persons shall remain unaffected by the provisions referred to Sections 36(1) and (2).

### **Section 37** **Submission of request to broadcast a reply and additional announcement and the requisites thereof**

(1) The request to make public a reply or additional announcement shall be in writing.

(2) The request to broadcast a reply shall clearly indicate what in the transmitted announcement was the actual information affecting the honour, dignity or privacy of the natural person or the good name or reputation of the legal person. Such a request shall also contain the proposed wording of the reply or additional announcement.

(3) The request to broadcast a reply shall be delivered to the broadcaster no later than 30 days of the date on which the challenged announcement was made public in radio or television broadcasting, otherwise the right to reply shall lapse.

(4) The request to broadcast an additional announcement shall be delivered to the broadcaster no later than 30 days from the finality of the decision by which the proceedings were finally terminated, otherwise the right to additional announcement shall lapse. In the event that the final decision was cancelled the above provision shall apply *mutatis mutandis*.

### **Section 38** **Conditions for making public a reply and additional announcement**

(1) A broadcaster shall broadcast a reply or additional announcement:  
a) in the same programme unit in which the challenged announcement was broadcast and if that is not possible, then in a broadcasting time of the same value as that at which the challenged



announcement was broadcast. In terms of form the new announcement shall be on a par with, and in terms of extent it should be adequate to, the challenged announcement,

- b) with express indication of “Response” or “Additional Announcement”,
- c) at the broadcaster’s own expenses,
- d) in the same language in which the challenged announcement was broadcast,
- e) with indication of the name and surname of the natural person or name of the legal person who or which applied for the reply or additional announcement to be broadcast, if such a person so requests.

(2) The broadcaster shall broadcast such a reply or additional announcement within 8 days after delivery to it of the request for such a reply or additional announcement to be broadcast.

(3) In the event that a broadcaster’s radio and television broadcasting authorisation terminates, such a broadcaster shall, at its expense and under conditions laid down herein, ensure that the reply or additional announcement is broadcast in another broadcaster’s radio or television broadcasting, covering a similar number of listeners or viewers in the same region in which the challenged announcement was made public.

### **Section 39**

#### **Enforcement through a court of the right of reply and additional announcement**

(1) If the broadcaster fails to transmit a reply or additional announcement or if the broadcaster fails to meet the conditions of broadcasting the reply or additional announcement as referred to in Section 38 above, then a Court shall decide on the obligation to broadcast such a reply or additional announcement, doing so upon request submitted by the person who requested such a reply or additional announcement to be broadcast.

(2) Such a request shall be filed with the Court no later than 15 days after expiry of the period required for the broadcasting of the reply or additional announcement, otherwise the entitlement to enforce the broadcasting of a reply or additional announcement through the court shall lapse.

### **Section 40**

#### **Exemptions from the obligation to broadcast a response and additional announcement**

(1) A broadcaster shall not be obliged to broadcast a reply or additional announcement if:

- a) making the proposed text public would involve the commitment of a criminal act or administrative offence,
- b) making the proposed text public would involve immoral offence,
- c) the challenged communication or part thereof is quoted from a third party’s communication intended for the public, or is a true interpretation thereof, and was marked or presented as such.

(2) The broadcaster shall not be obliged to broadcast a reply if the relevant request challenges a text published on the basis of a conclusive prior consent of the person who submits such a request.

(3) The broadcaster shall not be obliged to broadcast an additional announcement if prior to the delivery to the broadcaster of the request to broadcast such an additional announcement the broadcaster had made public, upon its own initiative, an announcement corresponding to the additional announcement, provided that the conditions laid down in this Act were met.

**Section 41**  
**Protection of the information source and content**

(1) Any natural person or legal person who/which took part in obtaining or processing the information made public or to be made public in radio or television broadcasting shall have the right to deny disclosure of the origin of such information or the content thereof to the court or any other State authority or public administration authority.

(2) Any natural person or legal person who/which took part in obtaining or processing the information made public or to be made public in radio or television broadcasting shall have the right to deny submission or delivery, to a court or a State authority or public administration authority, of any items from which the origin or content of such information might be derived.

(3) The obligations laid down in a special legal regulation and requiring avoidance of any favouritism for offenders and to prevent or report criminal offence shall remain unaffected by the rights referred to in Paragraph 1 and Paragraph 2 above, and so shall remain, in relation to such obligations laid down in specific legislation, any obligations as may be prescribed in the penal proceedings.

TITLE III

PROMOTION OF EUROPEAN PRODUCTION  
AND INDEPENDENT AND CONTEMPORARY EUROPEAN PRODUCTION

**Section 42**

The television broadcaster shall, where practicable, allocate more than a half of the total broadcasting time of each programme for European production. The total broadcasting time on the basis of which the proportion of European works is determined shall not be deemed to include the time of broadcasting news and reporting programme units, sports events, contests, teletext, advertising and teleshopping.

**Section 43**

(1) The television broadcaster shall, where practicable, allocate at least 10% of the total broadcasting time of each programme for European works produced by independent producers. The total broadcasting time on the basis of which the proportion of European works produced by independent producers is determined shall not be deemed to include the time of broadcasting news and reporting programme units, sports events, contests, teletext, advertising and teleshopping.

(2) The obligation referred to in Paragraph 1 above shall be deemed to be fulfilled if the television broadcaster spends at least 10% of its programming budget on the production or purchase of European works created by independent producers.

(3) Treated as an independent producer shall be any legal person or natural person which or who is not a television broadcaster and is not interconnected with a television broadcaster in property terms, or whose supply of works to a single television broadcaster does not exceed 90% of its total production over 3 years. A person interconnected with a television broadcaster in property terms shall be understood to mean a person holding voting rights or an ownership interest in the television broadcaster or a person in which a television broadcaster holds voting rights or an ownership interest.

**Section 44**

(1) Where practicable, the television broadcaster shall ensure that the broadcasting of the works first made public less than 5 years ago represents at least 10% of the broadcasting time allocated for the broadcasting of European works created by independent producers.

(2) The television broadcaster which meets the obligations in respect of promotion of European independent production in accordance with the provisions of Section 43(2) by spending at least 10% of its programme budget on the production and purchase of European works created by independent producers shall spend at least 10% of such an amount on works which were first made public 5 years ago or less.

#### **Section 45**

(1) The obligations of the television broadcaster set out in Sections 42 to 44 hereof shall not apply to the operators of:

- a) local broadcasting not involved in a nation-wide television network,
- b) programme broadcast exclusively in a language other than Czech or in a language other than any of the languages of the Member States of the European Communities; however, if only a substantial part of the programme is broadcast in a language other than Czech or in a language other than any of the languages of the Member States of the European Communities, then the non-applicability of the obligations of the television broadcaster laid down in Sections 42 to 44 shall only relate to such a substantial part.

(2) The obligations of the television broadcaster set out in Sections 42 to 44 hereof shall not apply to television broadcasters whose broadcasting is intended exclusively for reception outside the Czech Republic and outside the territory of the Member States of the European Communities, which television broadcasting is not directly or indirectly received by the public in the Czech Republic or in any of the Member States of the European Communities.

#### **Section 46 European works**

(1) Treated as European works shall be:

- a) works originating from the Member States of the European Union,
- b) works originating from states which are not Member States of the European Union but are parties to the European Convention on Transfrontier Television<sup>4b)</sup>, and meeting the conditions specified in Paragraph 3 below, or
- c) works co-produced within the framework of agreements related to the audiovisual sector concluded between the European Communities and third countries and fulfilling the conditions defined in each of those agreements.

(2) Provisions of points b) and c) of Paragraph 1 above shall only be applied if works originating in the Member States of the European Union are not the subject of discriminatory measures in the third countries concerned.

(3) The works referred to in points a) and b) of Paragraph 1 above are works mainly made with authors and workers residing in one or more of the States referred to in those provisions, provided that:

- a) such works are made by one or more producers established in one or more of those States,
- b) the production of such works is supervised and actually controlled by one or more producers established in one or more of those States, or
- c) the contribution of co-producers of those States to the total co-production costs is preponderant and the co-production is not controlled by one or more producers established outside those States.

(4) Works that are not European works within the meaning of Paragraph (1) above but that are produced within the framework of bilateral co-production agreements concluded between Member States and third countries shall be deemed to be European works, provided that the co-producers from

the Member States of the European Union supply a majority share of the total cost of production and that the production is not controlled by one or more producers established outside the territory of the Member States of the European Union.

**Section 47**  
**Monitoring the promotion of European production**  
**and European independent and contemporary production**

(1) The Council shall supervise compliance with the obligations as referred to in Sections 42 to 44 hereof. For each period of such supervision, the television broadcaster shall submit to the Council:

- a) information on the number and length of the European works being broadcast, including identification thereof and the producers,
- b) information on the number and length of the broadcast European works created by independent producers, including identification thereof and the producers, and possibly also documents to prove that such a television broadcaster spent at least 10% of its programming budget on the production or purchase of European works created by independent producers, including identification of the producers of such works,
- c) lists of the broadcast European works created by independent producers, which were produced 5 years ago or less,
- d) information on the number and length of the broadcast Czech works.

(2) If it follows from the information submitted to the Council in accordance with the provisions of Section 47(1) that the obligations referred to in Sections 42 to 44 were not fulfilled during the period of supervision, the television broadcaster shall inform the Council about the reasons why the said obligations were not fulfilled.

(3) The period of supervision (monitoring) for the purposes of Sections 47(1) and (2) above shall be one calendar year.

TITLE IV

COMMERCIAL COMMUNICATIONS

**Section 48**  
**The obligations of broadcasters in respect of the broadcasting of commercial communications**

(1) Broadcasters are not allowed to broadcast:

- a) commercial communications that are not readily recognisable as such,
- b) commercial communications that encourage behaviour prejudicial to health or to safety, or behaviour seriously prejudicial to the protection of the environment,
- c) commercial communications in which newscasters, moderators or editors of news and political programme units appear,
- d) religious and atheist commercial communications,
- e) political parties' and movements' commercial communications and those of independent candidates standing for the posts of deputies, senators or members of a municipal or local council or council of a higher-level self-government unit, unless otherwise provided in specific legislation,
- f) commercial communications concerning medicinal products or medical treatment available only on medical prescription in the Czech Republic,
- g) commercial communications for cigarettes and other tobacco products,

- h) surreptitious commercial communications,
- i) commercial communications containing subliminal messages,
- j) commercial communications prejudicing respect for human dignity,
- k) commercial communications attacking a faith or religion, or a political or other opinion,
- l) commercial communications containing discrimination on grounds of sex, race, colour, language, faith and religion, political or other opinion, national or social origin, nationality or ethnicity, property, birth or other status.

(2) Commercial communications shall not cause physical or moral detriment to minors by:

- a) directly exhorting minors to buy or hire a product or service by exploiting their inexperience or credulity,
- b) directly encouraging minors to persuade their parents or others to purchase the goods or services being offered,
- c) exploiting the special trust minors place in parents, teachers or other persons, or
- d) unreasonably showing minors in dangerous situations.

(3) The veracity of information contained in a commercial communication shall be the responsibility of the party commissioning the commercial communication; where the party commissioning the commercial communication cannot be identified, responsibility shall lie with the broadcaster. The party commissioning a commercial communication is a legal or natural person placing an order for the commercial communication with another legal or natural person.

#### **Section 49**

#### **Obligations Related to the Inclusion of Advertisements and Teleshopping in Broadcasting**

(1) A broadcaster shall ensure that:

- a) advertising and teleshopping are readily recognisable as such; with a radio broadcaster this shall be clearly distinguishable by audio means, and for a television broadcaster it shall be clearly distinguishable by audio, visual or audiovisual means or by spatial means separated from other broadcasts,
- b) isolated advertising and teleshopping spots are included in broadcasting only in exceptional cases, except for live transmissions of sports events; this shall not apply to radio broadcasting,
- c) advertising and teleshopping for erotic services and erotic products is not included in broadcasting in the period from 6.00 a.m. to 10.00 p.m.; this obligation shall not apply to broadcasters where broadcasting to the end user is available under a written contract concluded with a person aged over 18 years and is accompanied by the provision of a technical measure which allows that person to restrict minors.
- d) advertising and teleshopping is not included immediately prior to or immediately after the broadcasting of religious services.

(2) A television broadcaster shall ensure that the insertion of advertising or teleshopping spots in a programme unit does not prejudice the integrity of the programme unit or the rights of right-holders by failing to take into account natural breaks in, and the duration and the nature of, the programme unit.

(3) A licensed television broadcaster shall not interrupt the broadcasting of films made for television, cinematographic works and news programme units with advertising or teleshopping spots more than once per scheduled time period of at least 30 minutes. A licensed radio broadcaster shall not interrupt the broadcasting of news programme units with advertising or teleshopping spots more than once per scheduled period of at least 30 minutes. The time of inserted advertising and teleshopping

spots is included in the period of time scheduled for the broadcasting of films made for television, cinematographic works, and news programme units.

(4) The radio and television broadcasting of children's programme units shall not be interrupted by advertising or teleshopping spots more than once for each scheduled time period of at least 30 minutes, provided that the scheduled duration of the children's programme unit, excluding the advertising and teleshopping spots, is greater than 30 minutes. During the television broadcasting of a children's programme unit, advertising and teleshopping spots shall not be shown on a split screen.

(5) The radio and television broadcasting of religious services shall not be interrupted by advertising or teleshopping. During the television broadcasting of religious services, advertising and teleshopping spots shall not be shown on a split screen.

(6) The restrictions under paragraph (3) shall not apply to films made for television if they are documentary in nature or if they are separate episodes of serials or series of programme units.

(7) A statutory broadcaster may insert advertising and teleshopping spots only between programme units or in natural breaks in programme units.

## **Section 50**

### **The time volume of advertising and teleshopping in television broadcasting**

(1) A statutory television broadcaster is not allowed to broadcast advertising and teleshopping other than the advertising whose insertion is directly connected with the broadcasting of a sports or cultural event, provided that the acquisition of the rights to broadcast such a sports or cultural event is contingent on the inclusion of such advertising. If advertising is inserted in the statutory broadcaster's programme as indicated in the preceding sentence, the time reserved for such advertising shall not exceed 0.5% of the daily broadcasting time, and during the period of 19.00 h to 22.00 h it must not exceed 6 minutes in one hour of broadcasting. Direct connection with the broadcasting of a sports or cultural event means the insertion of advertising in the programme immediately before the sports or cultural event, immediately after the broadcasting of such an event, and in breaks within such an event.

(2) During each hour of television broadcasting by any broadcaster the time allocated to advertising and teleshopping spots shall not exceed 12 minutes.

(3) The time of the broadcasting of teletext shall not be deemed to belong in the broadcasting time for the purposes of the provisions under Sections 50(1) and (2).

(4) Sections 50(1) and (2) shall not apply to a broadcaster's notification concerning its own programmes and ancillary products or services directly derived from such programmes, to any notification of sponsorship or product placement, to any public service announcements or announcements in favour of generally beneficial objectives broadcast free of charge, or to charity appeals broadcast free of charge.

(5) The time allocated to advertising and teleshopping that was left unused in any of the statutory television broadcaster's programmes may not be used for the broadcasting of advertising and teleshopping beyond the time restrictions set for advertising and teleshopping in any other of its programmes.

(6) Coherent teleshopping windows shall last without interruption for at least 15 minutes and shall be clearly identified by optical and acoustic means. A licensed television broadcaster may, on a programme which is not dedicated exclusively to teleshopping, broadcast teleshopping windows beyond the time limits for the broadcasting of advertising and teleshopping spots pursuant to Section 50(2).

## **Section 51**

### **The time volume of advertising and teleshopping in radio broadcasting**

(1) For the statutory radio broadcaster the time allocated to advertising and teleshopping shall not exceed 3 minutes of the daily broadcasting time on a nation-wide broadcasting circuit and 5 minutes of the daily broadcasting time on a local broadcasting circuit.

(2) For other radio broadcasters the time allocated to advertising and teleshopping shall not exceed 25% of the daily broadcasting time.

(3) The time allocated to advertising and teleshopping that was left unused in any of the statutory radio broadcaster's programme units may not be used for the broadcasting of advertising and teleshopping beyond the time restrictions set for advertising and teleshopping in any other of its programmes.

(4) The radio broadcaster's notification concerning the broadcaster's own programme units and ancillary products or services directly derived from such programmes, as well as notifications broadcast free of charge in public interest and for public benefit, including also charity announcements, shall not be deemed to be subject to the time restriction on advertising in broadcasting as referred to in the preceding paragraphs.

## **Section 52**

### **Special Provisions on Commercial Communications for Alcoholic Beverages**

Commercial Communications for Alcoholic Beverages shall not

- a) specifically focus on minors or depict minors drinking alcoholic beverages,
- b) link the consumption of alcoholic beverages to enhanced physical performance or to driving,
- c) create the impression that the consumption of alcoholic beverages contributes to social or sexual success,
- d) assert that alcoholic beverages have therapeutic qualities or a stimulating or sedative action or are a means to resolve personal conflicts,
- e) encourage immoderate consumption of alcoholic beverages or present abstinence or moderation in an unfavourable light,
- f) emphasise a high content of alcohol as a positive quality of the beverage.

## **Section 53**

### **Obligations of broadcasters related to the broadcasting of sponsored radio or television programmes and programme units**

(1) Sponsored radio or television programmes and programme units shall meet the following requirements:

- a) their content and the scheduling of programme units and other broadcasts shall not be influenced in such a way as to affect the editorial responsibility and independence of the broadcaster,
- b) they shall not directly encourage the purchase or rental of goods or services, in particular by making special promotional references to those goods or services.

(2) Radio or television programmes and programme units shall not be sponsored by persons whose principal activity is the manufacture or sale of cigarettes or other tobacco products.

(3) The sponsorship of radio or television programmes and programme units by persons whose activities include the manufacture or distribution of medicinal products and medical treatment

procedures may promote in public the name or image of the sponsor, but shall not promote medicinal products or medical treatment available only on prescription in the Czech Republic.

(4) The broadcaster shall clearly identify any fully or partially sponsored programme unit at the beginning and subsequently during, or at the end of, the programme unit by the name, visual symbol (logo) or any other symbol of the sponsor, including, without limitation, a reference to its products, services or their characteristics.

(5) The broadcaster of a sponsored programme shall notify the existence of the sponsorship, clearly indicate the sponsor's name and specify its principal activity. Notification of sponsorship shall not be broadcast in trailers for the programme unit, during the course of the programme unit, immediately before it or immediately after its end.

(6) News and current affairs programme units shall not be sponsored.

(7) It is impossible to sponsor programmes where more than half of the programme units are not allowed to be sponsored.

### **Section 53a** **Obligations of broadcasters related to product placement**

(1) Product placement in programme units shall be admissible only:

- a) in cinematographic works, films and series made for television broadcasting or for on-demand audiovisual media services, in sports and entertainment programmes, provided that they are not children's programmes, or
- b) where there is no payment but only the provision of certain goods or services free of charge, including, without limitation, production props and prizes for competitors, with a view to their use in a programme.

(2) Programme units containing product placement shall meet the following requirements:

- a) their content and scheduling shall not be influenced in such a way as to affect the editorial responsibility and independence of the on-demand audiovisual media service provider,
- b) they shall not directly encourage the purchase or rental of goods or services, in particular by making special promotional references to those goods or services,
- c) they shall not give undue prominence to the product in question.

(3) Programme units containing product placement shall be clearly identified as such at the start and end of the programme unit and when a programme unit resumes after an advertising or teleshopping break in order to avoid any confusion on the part of the viewer as to the nature of these programme units. The obligation under the first sentence shall not apply to programme units which have not been produced or commissioned by the television broadcaster itself or a person affiliated to the television broadcaster as a controlling or controlled entity under specific legislation<sup>1(a)</sup>.

(4) Programme units shall not contain product placement of:

- a) cigarettes or other tobacco products or product placement from persons whose principal activity is the manufacture or sale of cigarettes or other tobacco products; or
- b) medicinal products or medical treatments available only on prescription in the Czech Republic.

## TITLE V

### OBLIGATIONS OF CABLE SYSTEM BROADCASTERS AND CABLE REBROADCASTERS



## **Section 54**

### **Provision of local broadcasting**

(1) A licensed cable system broadcaster and cable system rebroadcaster shall – if so requested by a municipality or voluntary association of municipalities – allocate free of charge one channel for an unpaid local information system serving exclusively to meet the needs of the local community. Without the consent of the licensed broadcaster and rebroadcaster, such a programme shall not be used for advertising and teleshopping purposes.

(2) When creating its minimum programme range, a cable rebroadcaster shall ensure that the programme range includes the terrestrial broadcasts of all statutory broadcasters' programmes not protected by conditional access systems, which can be received by standard end-user equipment, through the cable lines, irrespective of whether they are transmitted by analogue or digital means, upon consent of the statutory broadcaster<sup>3), 4)</sup>.

(3) Statutory broadcasters are obliged to provide the above-mentioned programmes to cable rebroadcasters free of charge, and rebroadcasters are obliged to include these programmes in their minimum programme range also free of charge.

## TITLE VI

### ISSUANCE OF OPINIONS ON THE OBLIGATION OF ELECTRONIC COMMUNICATIONS NETWORK OPERATORS TO DISTRIBUTE PROGRAMMES AND DIRECTLY RELATED SERVICES IN PUBLIC INTEREST

#### **Section 54a**

When assessing whether there is public interest or whether public interest continues, the Council must in particular take into account the proportion of public interest programme units and own-produced programme units, the multimodal access to programme units that are broadcast for the hard of hearing and the visually impaired (sound descriptions, Czech sign language, subtitles with indication of the non-verbal part of the story, easy navigation) and the suitability of the broadcasters' programme for immediate notification pursuant to section 32(1)(k).

## PART SIX

### PROVIDING INFORMATION PLURALITY IN RADIO BROADCASTING AND TELEVISION BROADCASTING

#### **Section 55**

##### **Providing information plurality in nation-wide analogue radio and television broadcasting**

(1) No single legal person, nor any single natural person, may be a holder of more than one licence for nation-wide analogue television broadcasting.

(2) No single legal person, nor any single natural person, may be a holder of more than one licence for nation-wide analogue radio broadcasting.

(3) No nation-wide analogue radio broadcaster may possess any ownership interest in the business of any other nation-wide analogue radio broadcaster.

(4) No nation-wide analogue television broadcaster may possess any ownership interest in the business of any other nation-wide analogue television broadcaster.

(5) No nation-wide statutory television broadcaster may consolidate with any nation-wide analogue television broadcaster, such a consolidation being based on the fact that their governing bodies or members of governing bodies are the same persons or related parties, or are members in the same business entity or are related parties.

(6) No nation-wide statutory radio broadcaster may consolidate with any other nation-wide analogue radio broadcaster, such a consolidation being based on the fact that their governing bodies or members of governing bodies are the same persons or related parties, or are members in the same business entity or are related parties.

(7) No nation-wide analogue television broadcaster may consolidate with any other nation-wide analogue television broadcaster in any other manner (Section 58).

(8) No nation-wide analogue radio broadcaster may consolidate with any nation-wide analogue radio broadcaster in any other manner (Section 58).

(9) Provisions of Paragraphs 1, 2, 3, 4, 7 and 8 above shall not apply to radio and television broadcasting distributed via cable systems and satellites.

(9) Provisions of Paragraphs 1, 2, 3, 4, 7 and 8 above shall not apply to radio and television broadcasting distributed via cable systems, satellites and special transmission systems.

(10) Provisions of Paragraphs 7 and 8 above shall not apply to persons involved in the promotion and sale of advertising services, sponsorship- and teleshopping-related services, market surveying services and services relating to the purchase of programme units, except news programmes.

### **Section 55a**

#### **Providing information plurality in nation-wide digital radio and television broadcasting**

(1) No single legal person, nor any single natural person, may be a holder of more than two licences for nation-wide digital television broadcasting, which authorise the distribution of full-format programmes.

(2) No single legal person, nor any single natural person, may be a holder of more than two licences for nation-wide digital radio broadcasting.

(3) No nation-wide digital television broadcaster may possess any ownership interest in the business of any other nation-wide television broadcaster.

(4) No nation-wide digital radio broadcaster may possess any ownership interest in the business of any other nation-wide radio broadcaster.

(5) No nation-wide statutory television broadcaster may consolidate with any nation-wide digital television broadcaster, such a consolidation being based on the fact that their governing bodies or members of governing bodies are the same persons or related parties, or are members in the same business entity or are related parties.

(6) No nation-wide statutory radio broadcaster may consolidate with any other nation-wide digital radio broadcaster, such a consolidation being based on the fact that their governing bodies or members of governing bodies are the same persons or related parties, or are members in the same business entity or are related parties.

(7) No nation-wide digital television broadcaster may consolidate with any nation-wide digital television broadcaster in any other manner (Section 58).

(8) No nation-wide digital radio broadcaster may consolidate with any nation-wide digital radio broadcaster in any other manner (Section 58).

(9) Provisions of Paragraphs 1, 2, 3, 4, 7 and 8 above shall not apply to radio and television broadcasting distributed via cable systems, satellites and special transmission systems.

(10) Provisions of Paragraph 3 above shall not apply to agreements between digital television broadcasters that use transmitters, concerning shared operation of the electronic programme guide. The provisions of Paragraphs 7 and 8 shall not apply to persons involved in the promotion and sale of advertising services, sponsorship- and teleshopping related services, market surveying services and services relating to the purchase of programme units, except news programmes.

## **Section 56**

### **Providing information plurality in local and regional radio and television broadcasting**

(1) If any single legal person or any single natural person is a holder of more than one licence to operate television broadcasting other than nation-wide television broadcasting, then the total coverage of the Czech Republic by such a legal person's or natural person's broadcasting, counted as a proportion of the sum of all such licences for the operation of television broadcasting other than nation-wide television broadcasting, shall not in aggregate exceed 70% of the total number of population of the Czech Republic, based on information from the most recent population census. Each inhabitant of the Czech Republic so covered shall always be counted in the total number of the population of the Czech Republic only once.

(2) If any single legal person or any single natural person is a holder of more than one licence to operate radio broadcasting other than nation-wide radio broadcasting, then the total coverage of the Czech Republic by such a legal person's or natural person's broadcasting, counted as a proportion of the sum of all such licences for the operation of radio broadcasting other than nation-wide radio broadcasting, shall not in aggregate exceed 300% of the total number of population of the Czech Republic, based on information from the most recent population census. Each inhabitant of the Czech Republic so covered shall always be counted in the total number of the population of the Czech Republic as many times as many of the respective programmes the inhabitant can listen to, the respective programmes being those broadcast under such a legal or natural person's all licences to operate radio broadcasting other than nation-wide radio broadcasting.

(3) Any single legal person or any single natural person may only hold an ownership interest in the business of more than one operator of radio broadcasting other than nation-wide radio broadcasting insofar as the total coverage of the population of the Czech Republic by the broadcasting of all operators of radio broadcasting other than nation-wide radio broadcasting in whose businesses such a legal or natural person has an interest remains under or at 300% of the total population of the Czech Republic, counted on the basis of the information from the most recent population census. Each inhabitant of the Czech Republic so covered shall always be counted in the total number of the population of the Czech Republic as many times, as many of the respective programmes the inhabitant can listen to, the respective programmes being those broadcast by all operators of radio broadcasting other than nation-wide radio broadcasting in whose business such a legal or natural person has an interest.

(4) Any single legal person or any single natural person may only hold an ownership interest in the business of more than one operator of television broadcasting other than nation-wide television broadcasting insofar as the total coverage of the population of the Czech Republic by the broadcasting of all operators of television broadcasting other than nation-wide television broadcasting in whose

businesses such a legal or natural person has an interest remains under or at 70% of the total population of the Czech Republic, counted on the basis of the information from the most recent population census. Each inhabitant of the Czech Republic so covered shall always be counted in the total number of the population of the Czech Republic only once.

(5) The obligations referred to in Paragraphs 1 to 4 above do not apply to radio and television broadcasting distributed via cable systems, satellites and special transmission systems.

### **Section 57** **Formation of programme networks**

(1) No programme network may cover by radio broadcasting more than 80% and by television broadcasting more than 70% of the total population of the Czech Republic, counted on the basis of the information from the most recent population census. Each inhabitant of the Czech Republic so covered shall always be counted in the total number of the population of the Czech Republic only once.

(2) Broadcasters that are, or have been, distributing their broadcasting within a programme network may not change programme network nor may they change the broadcaster from which they take over the programme, during the period of validity of the licences awarded to them or extended for them.

(3) The provision contained in Paragraph 2 above shall also be binding on the broadcasters' legal successors.

### **Section 58** **Consolidation of broadcasters or rebroadcasters**

(1) A broadcaster or rebroadcaster shall notify the Council about any of the following circumstances:

- a) radio broadcasters have consolidated and television broadcasters have consolidated, such consolidation taking the form of merger of two legal persons or sale of the enterprise or a substantial part thereof,
- b) a consolidation occurred between radio broadcasters and between television broadcasters wherein:
  - 1. their governing bodies or members of governing or other bodies, or employees under direct management authority of such a governing body or member thereof or under direct management authority of the managing clerk, are identical natural persons or persons who are related parties,
  - 2. they run a joint business on the basis of a partnership deed, or
  - 3. are related parties,
- c) a consolidation of radio broadcasters has occurred whereby one legal person or one natural person exerts a substantial influence on two or more radio broadcasters,
- d) a consolidation of television broadcasters has occurred whereby one legal person or one natural person exerts a substantial influence on two or more television broadcasters.

(2) A legal person or natural person shall be regarded as having a substantial influence on a broadcaster insofar as such a legal person or natural person:

- a) possesses a direct or indirect interest greater than 34% of the voting rights, an indirect interest being an interest held through a controlled party,
- b) makes decisions regarding the majority of employees of the broadcaster who are under the direct managing authority of the governing body or a member thereof, or makes decisions on the persons that provide, on the basis of a mandate agreement or any other agreement, significant administrative, managing or trading activities for the broadcaster,

c) has opportunities to exercise a controlling influence on the management of the broadcaster upon the basis of a contract, a special provision in the Statutes, Memorandum of Association or Founder's Deed or agreement with persons who are members or shareholders of the broadcaster regardless of the validity or non-validity of such an agreement.

(3) Obligations specified in Sections 56 and 57 shall not apply to statutory broadcasters or broadcasters possessing a short-term licence.

## PART SEVEN

### PENALTY PROVISIONS

#### **Section 59** **Corrective action**

(1) If a broadcaster or rebroadcaster breaches any obligations set out herein or any conditions stipulated in the licence granted to such a broadcaster or rebroadcaster, then the Council shall warn such a (re)broadcaster of the breach and shall grant such a (re)broadcaster a grace period to take corrective action.

(2) The length of the grace period for corrective action as referred to in the preceding paragraph shall be adequate to the nature of the obligation so breached.

(3) If corrective action is taken within the prescribed period, the Council shall not impose any penalty.

(4) Provisions of Paragraphs 1 to 3 above shall not apply if the broadcaster or rebroadcaster breaches the obligations referred to in Section 32(1)(c),(d) and (e), Section 63(1) and Section 64(1) in a particularly serious manner.

#### **Section 59a**

If the Council discovers illegal conduct within the European Union under directly applicable legislation of the European Union<sup>12)</sup>, which illegal conduct, committed by a broadcaster or rebroadcaster in the territory of the European Communities or in any other state within the European Economic Area, harms or could harm the common interest of consumers<sup>13)</sup>, the Council shall issue a decision to prohibit such conduct.

#### **Section 60** **The fines**

(1) The Council shall impose a fine of CZK 5,000 to CZK 2,500,000 upon any broadcaster and any rebroadcaster in the event that such a broadcaster or rebroadcaster:

- a) includes in broadcasting any programme units or any other broadcasts which show, without justification, dying people or people exposed to heavy physical or mental suffering, doing so in a manner detrimental to human dignity,
- b) fails to fulfil the obligations specified in Section 31(2) and (3),
- c) fails to provide broadcasting time as may be needed for important notices in urgent public interest as referred to in Section 32(1)(k),
- d) destroys the records of the programme units or other broadcasts that have been broadcast and does so before expiry of the period referred to in Section 32(1)(l),

- e) fails to provide the Council with the record of any requested programme unit or any other broadcast within 15 days of the date of delivery of the request according to Section 32(1)(l),
- f) breaches the obligations related to the marking of the programmes according to Section 32(1)(n) and (o),
- g) fails to provide scope in the cable network for a nation-wide broadcaster, as required by Section 54(2),
- h) fails to notify the Council, as required by Section 32(1)(p), of any technical obstacles which hinder the broadcasting,
- i) breaches the obligations or fails to meet the conditions for the broadcasting of events of major importance for society according to Section 33(1) and (2),
- j) fails to provide record of the broadcasting of an event which is an event of major importance for society if there is a simultaneous live coverage of another event of major importance for society according to Section 33(2),
- k) breaches any of the obligations prescribed for the sponsoring of programmes or sponsoring of programme units, or breaches any of the obligations prescribed for product placement,
- l) fails to fulfil the obligations prescribed in respect of commercial communications and surreptitious commercial communications,
- m) fails to provide the Council with the information needed for inspection of the proportion of European production and independent production as referred to in Section 47(1),
- n) fails to state the reasons for **not** fulfilling the obligation as to the required proportions of European production and independent production referred to in Section 47(2), *[the “not” (neplnění) is missing in the Czech text. Translator]*
- o) fails to comply with the provisions of Section 32(2),
- p) fails to comply with the provisions of Section 32(3),
- r) fails to comply with the provisions of Section 32(4),
- s) fails to comply with the provisions of Section 32(5),
- t) fails to provide the Council with the opinions and information referred to in Section 32(6),
- u) fails to ensure that viewers have easy, direct and permanent access to information according to Section 32(7).

(2) The Council shall impose a fine of CZK 10,000 to CZK 5,000,000 upon any broadcaster and rebroadcaster in the event that such a broadcaster or rebroadcaster:

- a) fails to allocate the required proportion of broadcasting time for European works and for European works created by independent producers according to Sections 42 to 44,
- b) fails to notify the Council of any change in the information contained in the licence application according to Section 21(2),
- c) fails to apply in advance for the Council’s consent to any change in the scheduling and territorial coverage of broadcasting and any change in the set of technical parameters according to Section 21(1)(b),
- d) fails to apply in advance for the Council’s consent to any change in the technical parameters and fails to apply in advance for the Council’s consent to any change in the territorial coverage of cable system broadcasting,
- e) fails to maintain the schedule or territorial coverage of broadcasting and the set of technical parameters,
- f) fails to maintain the basic programme specification,
- g) fails to meet the licence conditions,

- h) fails to inform the Council in advance about any changes in the information indicated in the application for registration as referred to in Section 29(1),
- i) fails to allocate one channel for the broadcasting of programmes that meet the needs of the defined local area covered by the cable system, as referred to in Section 54(1),
- j) fails to maintain the territorial coverage of broadcasting in the cable systems.

(3) The Council shall impose a fine of CZK 20,000 to CZK 10,000,000 upon any broadcaster or rebroadcaster, if such a broadcaster or rebroadcaster:

- a) includes in its broadcasting structure any programme units or other broadcasts that promote war or show brutal or otherwise inhumane behaviour in a manner involving its trivialisation, apology or approval,
- b) includes in its broadcasting structure any programme units or other broadcasts that contain subliminal communications,
- c) includes in its broadcasting structure any programme units or other broadcasts that may seriously affect the physical, mental or moral development of minors, especially where such programme units or other broadcasts contain pornography and gross gratuitous violence,
- d) includes in its broadcasting structure in the period from 06,00 to 22,00 hours programme units, captions and other broadcasts that might affect the physical, mental or moral development of minors, unless the broadcasting is available to the end user under a written contract concluded with a person aged over 18 years and is accompanied by the provision of a technical measure which allows that person to restrict minors' access to the broadcasting,
- e) breaches the obligations stipulated in Section 32(1)(a),
- f) breaches the obligations stipulated in Section 32(1)(c),
- g) breaches the obligations stipulated in Section 32(1)(r),
- h) breaches the obligation stipulated in Section 62(4),
- i) fails to respect any of the conditions specified in Section 67(3) for the provision of service directly related to the programme.

(4) The Council shall impose a fine of CZK 50,000 to 5,000,000 on any natural or legal person if such a person:

- a) interferes with the content of the programme of a broadcaster or rebroadcaster in contravention of Section 31(1) and breaches obligations related to the production or broadcasting of programme units, which obligations are set out in specific legislation<sup>3),4)</sup>,
- b) interferes without authorisation in the content of services directly related to the programme.

(5) The Council shall impose a fine of up to CZK 10,000,000 on any natural or legal person who/which operates broadcasting without being entitled to do so on the basis hereof or on the basis of specific legislation.

(6) The Council shall impose a fine of CZK 20,000 to CZK 5,000,000 on any broadcaster or rebroadcaster in the event that such a broadcaster or rebroadcaster:

- a) breaches the restrictions on certain ways of conduct as indicated in Section 21(6) and (7),
- b) breaches the notification duty as referred to in Section 58,
- c) commits a gross breach of the licence conditions.

(7) The Council shall impose a fine of CZK 1,000 to CZK 1,000,000 on any broadcaster or rebroadcaster in the event that such a broadcaster or rebroadcaster fails to fulfil any of its obligations under Section 34.

## **Section 61**

### **Common provisions on the imposition of fines**

(1) Any fine may be imposed within one year of the date on which the Council first learned about the breach of obligations but not later than 3 years after the commitment of the breach. Administrative proceedings in respect of the imposition of a fine may at the latest be commenced 3 months after the date on which the record requested according to Section 32(1)(l) hereof was delivered. The procedure of imposition of the fines shall be based on the Rules of Administrative Procedure.

(2) When imposing a fine for a breach of any obligation hereunder, the Council shall take into account the nature of the programme being broadcast and the position on the media market of the broadcaster or rebroadcaster with respect to its informational, educational, cultural and entertainment responsibility to the viewer public.

(3) The Council shall determine the amount of the fine according to the materiality of the case and the degree of blame and with respect to the extent, type and coverage of the faulty broadcasting and to the financial benefit, if any, and shall also take into account the opinion of a relevant self-regulatory body held on the list of self-regulatory bodies, provided that such an opinion is received by the Council within 10 working days from the date of commencement of administrative offence proceedings.

(4) The fine shall be payable and paid within 30 days of the date on which the decision on its imposition becomes final. The imposition of a fine shall be without prejudice to the provisions of specific regulations on compensation for damage and shall not be deemed as relieving the penalised person of any obligations under this Act.

(5) The proceeds from the fines shall be treated as receipts of the Revenue Authority of the Czech Republic.

(6) Complaint may be filed against the decision on the imposition of any fine on the basis of specific legislation<sup>9c)</sup>. The filing of the complaint has a suspensive effect. The court shall decide on the complaint within 90 days.

## **Section 62**

### **Suspension of the rebroadcasting of a television programme retransmitted from a State-party of the European Convention on Transfrontier Television and from a Member State of the European Union**

(1) The Council may decide to suspend the distribution of a television programme retransmitted from a State which is a State party to the European Convention on Transfrontier Television and is not a Member State of the European Union if the Council rules that the content thereof has repeatedly infringed the provisions of Section 32(4) and this infringement is clear, serious and grave<sup>14)</sup>, or that the content thereof otherwise infringes rights under the European Convention on Transfrontier Television<sup>15)</sup> in the Czech Republic.

(2) The Council may decide to suspend the distribution of a television programme retransmitted from another Member State of the European Union if the Council:

- a) considers that the content of a rebroadcast television programme manifestly, seriously and gravely infringes Section 32(4) and the broadcasters of the programme from another Member State of the European Union and the rebroadcaster have been warned in writing at least twice in the previous 12 months of this and of the fact that the distribution of the rebroadcast television programme could be suspended in the Czech Republic if the infringement were to persist or be repeated,
- b) notifies in writing its duly justified intention to suspend the distribution of the television programme in the Czech Republic to the European Commission and to the competent regulatory



body of the Member State of the European Union in which the broadcaster from whom the television programme was retransmitted is established (hereinafter referred to as the „regulatory body of the Member State of the European Union”), together with a request for consultations, and

- c) considers that the consultations with the European Commission and the regulatory body of the Member State of the European Union failed to reach an amicable settlement within 15 days from the start of the consultations and that the infringement persists.

(3) Except in the cases referred to in paragraph (2) above, the Council may decide to suspend the distribution of a television programme retransmitted from a Member State of the European Union, the content of which infringes legal provisions which, in areas coordinated within the European Union in accordance with European Union law, lay down more detailed or stricter rules<sup>16)</sup> (hereinafter referred to as „special rules”), if the Council:

- a) considers that the broadcasting of a television programme retransmitted from a Member State of the European Union is wholly or mostly directed towards the territory of the Czech Republic,
- b) considers that a broadcaster of a television programme rebroadcast in accordance with the preceding subparagraph (a) is established in another Member State of the European Union in order to circumvent special rules to which it would be subject if it were established in the Czech Republic,
- c) notifies in writing its duly justified intention to suspend the distribution of a television programme rebroadcast in accordance with subparagraph (a) above in the Czech Republic to the European Commission and the regulatory body of the Member State of the European Union,
- d) considers that the results achieved through collaboration with the regulatory body of the Member State of the European Union or with the authority designated under European Union law<sup>17)</sup>, if invited to collaborate, are not satisfactory<sup>18)</sup>, and
- e) receives a written decision from the European Commission that the implementation of the intention under subparagraph (c) above is compatible with European Union law.

(4) The Council shall notify a decision to suspend distribution of a rebroadcast television programme to each rebroadcaster. A rebroadcaster shall not distribute the programme identified in the Council’s decision in the Czech Republic from the day following the date of service of the Council’s decision until the date on which the Council’s decision expires.

(5) A decision to suspend the distribution of a rebroadcast television programme shall expire at the end of the period for which the Council restricted the validity thereof in the operative part of the decision, but no later than six months from the date of the finality thereof. A decision to suspend the distribution of a rebroadcast television programme which is issued pursuant to paragraph (2) above, shall be voided if the European Commission decides that it is incompatible with European Union law, such being on the date on which the Council publishes notification thereof on its official board and in a manner facilitating remote access; the Council shall publish such notification no later than on the first working day following the date on which it receives a written copy of the European Commission’s decision.

(6) The Council shall forthwith send to the Ministry of Foreign Affairs a copy of the documents that are dispatched under the procedure laid down in paragraph (1) above to the competent regulatory body of a State which is a State party to the European Convention on Transfrontier Television and is not a Member State of the European Union, or to an authority designated by the European Convention on Transfrontier Television. For documents sent by the Council under the procedure laid down in paragraphs (2) or (3) above to the European Commission, to the regulatory body of the Member State of the European Union or to a body designated under European Union law, the first sentence shall apply *mutatis mutandis*.

### **Section 63** **Withdrawal of the licence**

(1) The Council shall withdraw the licence from a licensed broadcaster if such a licensed broadcaster:

- a) attained the granting of the licence on the basis of false information in the licence application or such a broadcaster breached the obligation specified in Sections 55, 55a and 56,
- b) repeatedly commits a particularly serious breach of the obligations set out in Section 32 (1)(a), (c), (d) and (e) hereof and a fine has repeatedly been imposed upon the broadcaster for such breaches,
- c) repeatedly commits a particularly serious breach of the licence conditions.

(2) The Council may withdraw the licence from a licensed broadcaster if such a licensed broadcaster:

- a) failed to start radio broadcasting within 180 days of the finality of the decision to grant the licence, or failed to start television broadcasting within 360 days of the finality of the decision to grant the licence, or failed to do so within any other period defined in law,
- b) having started the broadcasting, failed for 30 days in total to do any broadcasting within the calendar year; the time of failure to broadcast shall not include the time for which the broadcasting was impeded by justified technical hindrances,
- c) insolvency proceedings have been adjudicated in respect of the assets of the broadcaster.

### **Section 64** **Cancellation of registration**

(1) The Council shall cancel the registration, or any part thereof, of a rebroadcaster, if such a rebroadcaster:

- a) provided false information in the application for registration,
- b) repeatedly breaches its obligations referred to in Section 32(3) and has already been fined for that.

(2) The Council shall cancel the registration, or any part thereof, of a rebroadcaster if:

- a) such a rebroadcaster committed a serious breach of this Act or an international treaty binding on the Czech Republic,
- b) insolvency proceedings have been adjudicated in respect of the assets of the rebroadcaster.

### **Section 65** **Common provisions on the withdrawal of the licence and cancellation of registration**

(1) Complaint may be filed against the Council's decision based on Sections 63 and 64 in accordance with specific legislation<sup>9c)</sup> within 30 days of the delivery of the decision. The filing of the complaint has a suspensory effect. The court must decide on the complaint within 90 days.

(2) If the licence is withdrawn or registration cancelled, the licensed broadcaster and rebroadcaster shall terminate the broadcasting within the period prescribed by the Council.

## PART EIGHT

### JOINT AND TRANSITIONAL PROVISIONS

#### Common provisions

##### Section 66

Unless otherwise provided herein, any proceedings shall be as stipulated in the Rules of Administrative Procedure, except for the provisions therein on appellate procedure, procedure for appeals on a point of law, review procedure and revision<sup>9e)</sup>. Complaint may be filed on the basis of specific legislation<sup>9c)</sup> against the award of the decision to reject a licence application, decision on a change in licence, decision on the withdrawal of licence, decision not to extend licence, decision to reject registration, decision on cancellation of registration, and decision on penalty, decision to suspend the distribution of rebroadcast television programme and decision on prohibition of activities that affect or may affect the common interest of consumers<sup>5a)</sup>. The filing of the complaint has a suspensive effect. The court must decide on the complaint within 90 days.

##### Section 66a

Unless otherwise provided herein, advertising and sponsorship regulation must be based on Act No. 40/1995 on the Regulation of Advertising (and on Amendment to Act No. 468/1991 on Radio and Television Broadcasting, as amended) as amended.

##### Section 67

(1) Provisions of Sections 42 to 47, Section 49(2) and (3) and Section 50(2) shall not apply to the television broadcasting of a programme exclusively focused on the promotion of the broadcaster's own television broadcasting and the products, services and other activities associated with the operation of own television broadcasting. Advertising may only be broadcast within such a programme insofar as it meets the conditions defined in this Act.

(2) In the broadcasting of a programme dedicated exclusively to advertising and teleshopping, advertising and teleshopping may be broadcast only if they satisfy the conditions laid down by the present Act. The provisions of Sections 42 to 47, Section 49(2) and (3) and Section 50(2) shall not apply to the broadcasting of such a programme.

(3) Services directly related to a programme shall be subject to the provisions of Section 32(1)(b) to (g) and Sections 35 to 41. If, within the scope of services directly related to a programme and within the content of an electronic programme guide, advertising and teleshopping are broadcast, the obligations under Sections 48, 49 and 52 shall apply to the broadcasting of the advertising and teleshopping.

##### Section 67a

Provisions of Sections 42 to 47, 50 and 51 do not apply to the content of services directly related to programme.

#### Transitional provisions

##### Section 68

(1) Broadcasting licences and rebroadcasting registrations issued under previous legislation shall be treated as broadcasting licences and rebroadcasting registrations under this Act. A cable system broadcaster or a satellite broadcaster shall apply for licence in respect of any programmes

which are not taken over from other sources; a licence application may also be submitted by a supplier of programme for the cable system or the satellite; such an application shall be submitted within 12 months of the effective date hereof, otherwise the authorisation to distribute such a programme shall lapse. Unless this Act contains provisions to the contrary, the Council shall grant the application within 30 days of the date of delivery of the application to the Council.

(2) Any licence-granting or registration proceedings that were commenced before the effective date hereof shall be suspended for 3 months starting from the effective date hereof. The validity of the existing licences shall be extended accordingly if this validity was to terminate at such a time. Parties to the proceedings shall within that period update their applications for broadcasting licence or applications for broadcasting registration according to the requirements of this Act. The proceedings based on the previous sentence shall then be completed in accordance with this Act under conditions defined herein.

(3) The deadline for submission of applications for extension of the licence as referred to in Section 12(10) shall be maintained provided that the licensed broadcaster submits such an application no later than within 1 month of the effective date hereof.

(4) The decisive time for the application of the provisions of Section 12(12) shall start running from the effective date hereof.

(5) In the event that the licence conditions of the licensed broadcaster contain no basic programme specification the licensed broadcaster shall propose the formulation of such a specification within 6 months of the effective date hereof and the Council shall then incorporate such a specification in the licence terms and conditions. The proposed formulation shall be in compliance with the licensed broadcaster's practice over the last year before the effective date hereof.

(6) A natural person who is a licensed broadcaster or a rebroadcaster may within 6 months of the effective date hereof request that the licence or registration which was granted to him/her be transferred to a legal person; the Council shall only grant this request in the event that the legal person concerned is 100%-owned by the natural person concerned.

(7) Any proceedings in respect of the imposition of fines, which proceedings were commenced prior to the effective date hereof, shall be completed in accordance with the legislation hitherto in force.

(8) The Council of the Czech Republic for Radio and Television Broadcasting set up in accordance with Act No. 103/1992 on the Council of the Czech Republic for Radio and Television Broadcasting, as amended, shall be treated as Council of the Czech Republic for Radio and Television Broadcasting based hereon. Within 6 months of the effective date hereof, the Council Members shall put their situation in compliance with Section 7.

(9) A licensed broadcaster shall adjust its legal situation to the requirements hereof within one year of the effective date hereof. If the licensed broadcaster fails to fulfil this obligation, then such a licensed broadcaster's licence shall lapse with the expiry of that one-year period. The Council shall approve any changes that are not in contradiction with the requirements referred to in Sections 55 to 58.

## **Revoking Provisions**

### **Section 69**

This is to revoke:

1. Act No. 468/1991, on radio and television broadcasting, as amended in Act No. 597/1992, Act No. 36/1993, Act No. 253/1994, Act No. 40/1995, Act No. 237/1995, Act No. 301/1995, Act No. 135/1997, Act No. 46/2000, Act No. 121/2000 and Act No. 39/2001.

2. Act No. 103/1992, on the Council of the Czech Republic for Radio and Television Broadcasting, as amended in Act No. 474/1992, Act No. 36/1993, Act No. 331/1993, Act No. 253/1994, Act No. 301/1995, Act No. 135/1997 and Act No. 151/2000.

## PART NINE

### **Amendment to Act No. 236/1995, on salaries and other compensations related to the discharge of office of representatives of state power and certain state authorities, and judges**

#### **Section 70**

Act No. 236/1995, on salaries and other compensations related to the discharge of office of representatives of state power and certain state authorities, and judges, as amended in Act No. 138/1996, Act No. 287/1997 and Act No. 155/2000, is amended as follows:

1. In Section 1, after clause e), a new clause f) is inserted, which reads as follows:

“f) Member, Vice-chairperson and Chairperson of the Council for Radio and Television Broadcasting.”.

The current clauses f) and g) are renumbered to g) and h).

2. In Part two, after Title Five, a new Title Five A is inserted, which, including the heading, reads as follows:

#### “TITLE FIVE A

##### DETAILS OF THE MEMBER, VICE-CHAIRPERSON AND CHAIRPERSON OF THE COUNCIL FOR RADIO AND TELEVISION BROADCASTING

###### Salary and additional salary

###### § 24a

(1) Member of the Council for Radio and Television Broadcasting shall be entitled to salary assessed from the salary base with a pay coefficient of 1.00.

(2) Member of the Council for Radio and Television Broadcasting shall be entitled to additional salary.

###### § 24b

(1) Vice-chairperson of the Council for Radio and Television Broadcasting shall be entitled to salary assessed from the salary base with a pay coefficient of 1.10.

(2) Vice-chairperson of the Council for Radio and Television Broadcasting shall be entitled to additional salary.

###### § 24c

(1) Chairperson of the Council for Radio and Television Broadcasting shall be entitled to salary assessed from the salary base with a pay coefficient of 1.20.

(2) Chairperson of the Council for Radio and Television Broadcasting shall be entitled to additional salary.

## PART TEN

### **Amendment to Act No. 99/1963, Rules of Civil Procedure, as amended**

#### **Section 71**

Act No. 99/1963, Rules of Civil Procedure, as amended in Act No. 36/1967, Act No. 158/1969, Act No. 49/1973, Act No. 20/1975, Act No. 133/1982, Act No. 180/1990, Act No. 328/1991, Act No. 519/1991, Act No. 263/1992, Act No. 24/1993, Act No. 171/1993, Act No. 117/1994, Act No. 152/1994, Act No. 216/1994, Act No. 84/1995, Act No. 118/1995, Act No. 160/1995, Act No. 238/1995, Act No. 247/1995, Constitutional Court award No. 31/1996, Act No. 142/1996, Constitutional Court award No. 269/1996, Act No. 202/1997, Act No. 227/1997, Act No. 15/1998, Act No. 91/1998, Act No. 165/1998, Act No. 326/1999, Act No. 360/1999, Constitutional Court award No. 2/2000, Act No. 27/2000, Act No. 30/2000, Act No. 46/2000, Act No. 105/2000, Act No. 130/2000, Act No. 155/2000, Act No. 204/2000, Act No. 220/2000, Act No. 227/2000, Act No. 367/2000, Act No. 370/2000, Act No. 120/2001 and Act No. 137/2001, is amended as follows:

1. In Section 9 the full stop at the end of Paragraph 2 is replaced by a coma and a clause j) is added, which, including footnote No. 1a), reads as follows:

“j) in proceedings against a decision of the Council for Radio and Television Broadcasting based on specific legislation.<sup>1a)</sup>

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<sup>1a)</sup>Section 66 of Act No. 231/2001 on radio and television broadcasting and on amendment to other Acts.”.

2. In Section 250m, a Paragraph 4 shall be added at the end, which, including footnote No. 57b), reads as follows:

“(4) Decision on a proposal submitted on the basis of specific legislation<sup>57b)</sup> shall be made by the court no later than 60 days of the date of submission.

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<sup>57b)</sup>Section 19 and Section 5(1) of Act No. 231/2001.”.

## PART ELEVEN

### **Amendment to the Act on Regulation of Advertising**

#### **Section 72**

Act No. 40/1995, on regulation of advertising and on amendment to Act No. 468/1991 on Radio and Television Broadcasting, as later amended, as amended in Act No. 258/2000, shall be amended as follows:

1. In Section 3, Paragraph 1, which includes footnote No. 3), reads as follows:

“(3) Advertising of tobacco and the products thereof in television and radio broadcasting is prohibited.<sup>3)</sup>

-----  
<sup>3)</sup> Section 48(1)(f) of Act No. 231/2001, on radio and television broadcasting and on amendment to other Acts.”.

2. In Section 7(a) the words “Council of the Czech Republic for Radio and Television Broadcasting<sup>7)</sup> for advertising distributed in radio and television broadcasting<sup>8)</sup>” shall be replaced by the words “Council for Radio and Television Broadcasting<sup>7)</sup> for advertising distributed in radio and television broadcasting<sup>7)</sup>”.

3. Footnote No. 7) reads: “<sup>7)</sup> Act No. 231/2001”.

4. The existing footnote No. 8) is cancelled.

## PART TWELVE

### **Amendment to Act No. 483/1991, on Czech Television, as amended**

#### **Section 73**

Act No. 483/1991 on Czech Television, as amended in Act No. 36/1993, Act No. 253/1994, Act No. 301/1995 and Act No. 39/2001, is amended as follows:

In Section 3, Paragraph 2 reads:

“(2) The State body responsible for the management of the frequency spectrum on the basis of specific legislation<sup>1a)</sup> shall, with prior consent of the Council for Radio and Television Broadcasting, allocate frequencies for the Czech Television, which frequencies shall allow for television broadcasting within the range defined in Section 3(1)(a).”.

## PART THIRTEEN

### **Amendment to the Act on Administrative Charges**

#### **Section 74**

The Tariff of Administrative Charges, contained in the Annex to Act No. 368/1992 on Administrative Charges, as amended in Act No. 10/1993, Act No. 85/1994, Act No. 273/1994, Act No. 36/1995, Act No. 301/1995, Act No. 305/1997, Act No. 149/1998, Act No. 157/1998, Act No. 167/1998, Act No. 63/1999, Act No. 166/1999, Act No. 167/1999, Act No. 326/1999, Act No. 352/1999, Act No. 357/1999, Act No. 360/1999, Act No. 363/1999, Act No. 46/2000, Act No. 62/2000, Act No. 117/2000, Act No. 133/2000, Act No. 151/2000, Act No. 153/2000, Act No. 154/2000, Act No. 156/2000, Act No. 158/2000, Act No. 227/2000, Act No. 242/2000, Act No. 307/2000, Act No. 365/2000 and Act No. 140/2001, is amended as follows:

1. The heading over item 65 shall read: “Authorisation to Operate Radio and Television Broadcasting and Authorisation to Operate Rebroadcasting”.

2. Item 66, including the note, reads:

“Item 66

a) Submission of application	
- for authorisation to operate television broadcasting .....	CZK 50,000
- for extension of validity of the authorisation to operate television broadcasting .....	CZK 50,000
b) Submission of application	
- for authorisation to operate radio broadcasting .....	CZK 15,000
- for extension of validity of the authorisation to operate radio broadcasting	CZK 15,000
c) Submission of application to operate rebroadcasting via a cable system or via satellites .....	CZK 50,000
d) Submission of application to change the information indicated	
- in the application for authorisation to operate television broadcasting ...	CZK 10,000
- in the application for authorisation to operate radio broadcasting .....	CZK 3,000
- in the application to operate rebroadcasting via a cable system or via satellites .....	CZK 10,000

- e) Decision of the Council for Radio and Television Broadcasting to extend the period of validity of the authorisation to operate nation-wide television broadcasting ..... CZK 200,000,000

Note:

The charge indicated in Clause d) of this Item shall not be collected by the administrative body for changes that are also performed in the form of entry in the Companies Register [Section 14(1)(a) to (d) of Act No. 231/2001, on Radio and Television Broadcasting and on Amendments to Other Acts].”

#### PART FOURTEEN

Repealed

Section 75

Repealed

#### PART FIFTEEN

EFFECT

Section 76

(1) This Act shall come into effect on the date of its promulgation, except for the provisions of Section 33(4) and (5) and Section 46, which shall come into effect as of the effective date of the Treaty of Accession of the Czech Republic to the European Union.

(2) Provisions of Section 68(10) shall lapse as of the date of entry into force of the Treaty of Accession of the Czech Republic to the European Union

Klaus v. r.

Zeman v. r.

### **Selected provisions of amended legislation**

#### **Article II of Act No. 235/2006**

##### **Transitional provisions**

1. A nation-wide television broadcaster holding a licence for terrestrial analogue programme broadcasting, which licence has been extended by decision of the Council for Radio and Television Broadcasting (hereinafter referred to as the “Council”) to include the right to also broadcast the programme digitally (hereinafter referred to as “extended licence broadcaster”),



- a) who/which within 180 days of the finality of the decision to extend the licence commences digital broadcasting of its programme via terrestrial radio broadcasting equipment networks (hereinafter referred to as “broadcasting network”) and
- b) who/which within 90 days of the entry into effect of this Act submits to the Council a written statement containing consent to changes to be made in the set of technical parameters as set out in its licence in accordance with the Technical Plan of Transition and the commitment to switch off analogue broadcasting by the deadline set in the Technical Plan of Transition,

shall be entitled to be granted a licence for nation-wide terrestrial digital broadcasting of another programme, including the services directly related to that programme.

2. Satisfaction of the conditions for the entitlement referred to in Point 1 above shall be immediately announced by the Chairperson of the Council by placing this information on the Council’s official notice board and by making it available by remote access.

3. A licence to broadcast another programme shall be granted by the Council to an extended licence broadcaster that has acquired the entitlement under Point 1, and shall be so granted within 60 days of the date the Council receives such a broadcaster’s request, provided that the request meets the conditions specified by law. A broadcaster that has acquired the entitlement under Point 1 above is authorised to enter into an agreement with a terrestrial radio transmission network operator for digital transmission of the programme as referred to in Point 1 above. If no such agreement is concluded within 90 days of the acquisition of the entitlement under Point 1 above, the Czech Telecommunication Office shall within 30 days impose on the terrestrial radio transmission network operator the obligation to transmit the programme referred to in Point 1. Imposition of this obligation is not subject to consultation under Act No. 127/2005 on Electronic Communications and on Amendment to Certain Related Acts (the Electronic Communications Act), as amended. The Czech Telecommunication Office shall immediately inform the Council about the imposition of such an obligation.

4. The Council shall decide to withdraw a licence if, according to a binding opinion of the Czech Telecommunication Office, an extended licence broadcaster that has been granted a licence under Point 3 above fails to fulfil its commitment to switch off analogue broadcasting by the appropriate deadline or repeatedly commits a serious breach of the Technical Plan of Transition.

5. A licensed local or regional television broadcaster that broadcasts its programme by analogue means via a broadcasting network (hereinafter referred to as “local or regional broadcaster”) shall acquire entitlement to broadcast this programme in an unchanged format and for the duration of its licence via the broadcasting network intended for regional terrestrial digital television broadcasting (hereinafter referred to as “regional broadcasting network”), including the services directly related to the programme, provided that it delivers to the Council a written statement that it intends to broadcast the programme digitally within the range of the technical and operational capabilities of the regional broadcasting network. This statement must be delivered to the Council within 60 days of the date when the Czech Telecommunication Office publishes in the Telecommunications Bulletin and on its electronic notice board its notification that there is free transmission capacity available in the regional broadcasting network. The statement must contain the consent to making changes in the set of technical parameters of broadcasting, indicated in the licence in accordance with the Technical Plan of Transition and the commitment to switch off analogue broadcasting by the deadline set in the Technical Plan of Transition. The local or regional broadcaster shall also attach to this written statement a graphical representation of the anticipated territorial area of broadcasting, which in terms of the technical distribution of the regional broadcasting network corresponds to the area that represents a significant portion of unbroken reception of its analogue broadcasting as at the date of entry into effect of this Act.

6. Satisfaction of the conditions for the entitlement referred to in Point 5 above shall be immediately announced by the Chairperson of the Council by placing this information on the Council's official notice board and by making it available by remote access.

7. Within 30 days of the date of expiry of the deadline for the delivery of the written statement referred to in Point 5 above, the Council shall request the Czech Telecommunication Office to issue its opinion under Section 5(j) of Act No. 231/2001 in force from the effective date of this Act and also to issue an opinion concerning the placement possibilities within the regional broadcasting network in relation to all local or regional broadcasters that acquired the entitlement specified in Point 5 above. The rise of entitlement under Point 5 shall be recorded by the Council in the licence document. At the same time, the Council shall – upon request by the local or regional broadcaster – determine the licence conditions for digital broadcasting as resulting from Act No. 231/2001, as amended and in force from the effective date of this Act, doing so within 30 days from the date of reception by the Council of the last opinion requested from the Czech Telecommunication Office hereunder.

8. A local or regional broadcaster for whom/which the Council changed the licence in accordance with Point 7 above (hereinafter the “digital licensed local or regional broadcaster”) may enter into agreements with the undertakings that provide regional broadcasting networks under the provisions of Section 72a of Act No. 127/2005 on Electronic Communications and on Amendments to Certain Related Acts (the Electronic Communications Act), as amended and in force from the effective date hereof.

9. Digital licensed local or regional broadcasters (Point 8 above) who, as at the effective date of this Act, broadcast their programmes by analogue means on frequencies shared with a nation-wide licensed television broadcaster (hereinafter referred to as “local or regional broadcasters on shared frequencies”),

- a) whose aggregate coverage of local or regional broadcasting exceeds 33% of the total territory of the Czech Republic or whose broadcasts can be received in aggregate by at least 33% of the Czech population according to the most recent census, and
- b) that have entered into an agreement to create a programme network,

may nominate a legal person to acquire entitlement to be granted a licence for the digital broadcasting of one nation-wide television programme with a time schedule that will complement the time schedule of the local or regional broadcasters on shared frequencies pursuant to the agreement on creating a programme network. The Council will grant this licence to the nominated legal person within 60 days after receiving such a legal person's licence application, provided that the licence application meets all the required conditions and that, according to the opinion of the Czech Telecommunication Office, free transmission capacity is available in the regional broadcasting network. In the event that there is no free transmission capacity available in the regional broadcasting network according to the opinion of the Czech Telecommunication Office, the Council will give such a legal person priority in granting such a licence within 60 days after the Czech Telecommunication Office's decision to allocate radio frequencies, coming into effect pursuant to the provisions of Act No. 127/2005 on Electronic Communications and on Amendment to Certain Related Acts (the Electronic Communications Act), which provisions are in effect as at the effective date of this Act. All the local or regional broadcasters on shared frequencies forming the programme network must issue a statement to the effect that the request is being submitted by their nominated legal person, which is to be granted the licence under this point, and this statement must be attached to the request for licence. Each local or regional broadcaster on shared frequencies may only issue one such statement. Provisions of Section 57 of Act No. 231/2001, in force from the effective date of this Act, shall not apply to the programme network developed under this Point 9.

10. When creating its minimum programme range, a cable rebroadcaster shall ensure that the minimum range includes the terrestrial broadcasting of all the full-format nation-wide programmes not protected by a conditional access system of licensed broadcasters, including local and regional broadcasting on frequencies shared with a licensed nation-wide broadcaster, depending on the actual

situation as at the effective date of this Act. This obligation does not apply to programmes that are only broadcast digitally. A licensed nation-wide broadcaster and a local and regional broadcaster using frequencies shared with a licensed nation-wide broadcaster shall make such programmes available to rebroadcasters free of charge and a rebroadcaster shall include these programmes in their minimum programme range also free of charge. The obligations of the cable rebroadcaster, licensed nation-wide broadcaster and local and regional broadcaster on frequencies shared with a licensed nation-wide broadcaster as set out in this Point 10 will terminate on 31 December 2011.

11. Starting from the effective date of this Act, the local broadcasting licences issued in accordance with the previous legal regulations shall be considered to be regional broadcasting licences, provided that the respective radio or television broadcasting in the given territorial area can be received by more than 1% of the population of the Czech Republic according to the most recent census.

12. Any administrative procedures for the granting of licences for terrestrial digital broadcasting that have been commenced but not completed by the effective date hereof shall be suspended for a period of 90 days starting from the effective date of this Act and the Council shall then complete such procedures in accordance with Act No. 231/2001 in force from the effective date of this Act. Other administrative procedures that have been commenced but not completed by the effective date hereof shall be completed by the Council in accordance with Act No. 231/2001 in force until the effective date of this Act.

#### **Article IV of Act No. 304/2007**

##### **Transitional provisions**

1. A licence for nation-wide terrestrial digital television broadcasting, granted under the legal regulations hitherto in force, and a licence for nation-wide terrestrial analogue and digital television broadcasting (its part containing authorisation for terrestrial digital television broadcasting) on whose basis a programme is broadcast as at the effective date of this Act shall be considered as a licence for nation-wide terrestrial digital television broadcasting under this Act; the programme shall remain in the same electronic communications network, unless the licence holder agrees otherwise with the undertakings providing electronic communications networks.

2. Broadcasting of a programme on the basis of a terrestrial digital television broadcasting licence granted before the date of completion of the transition from terrestrial analogue television broadcasting to terrestrial digital television broadcasting under Section 25 of Act No. 231/2001 in force from the effective date of this Act may not be started sooner than on the date that follows after the date of completion of the transition from terrestrial analogue television broadcasting to terrestrial digital television broadcasting; however, such broadcasting must be started within 360 days after the date of completion of the transition from terrestrial analogue television broadcasting to terrestrial digital television broadcasting.

3. Any licensing procedure in respect of the operation of terrestrial digital television broadcasting via transmitters that was commenced and not completed with finality by the effective date of this Act must be discontinued by the Council for Radio and Television Broadcasting (hereinafter referred to as the "Council").

4. If so requested, the Council shall grant a compensation licence for nation-wide terrestrial digital television broadcasting to a holder of a nation-wide terrestrial analogue and digital television broadcasting licence on whose basis a programme is broadcast as at the effective date hereof, provided that:

a) the licence holder delivers a written statement to the Council within three months from the effective date of a Government Order promulgating the Technical Plan of Transition from Terrestrial Analogue Television Broadcasting to Terrestrial Digital Television Broadcasting, the statement

being to the effect that the licence holder will return the set of technical parameters of broadcasting as specified in the licence according to the Technical Plan of Transition from Terrestrial Analogue Television Broadcasting to Terrestrial Digital Television Broadcasting, and the licence holder also delivers to the Council within the same period its written commitment to switch off terrestrial analogue television broadcasting by 10 October 2010 or by a later date as may be defined in the Technical Plan of Transition from Terrestrial Analogue Television Broadcasting to Terrestrial Digital Television Broadcasting, and

b) the licence holder meets the conditions specified in Section 13(3) of Act No. 231/2001.

5. If so requested, the Council shall also grant a compensation licence to a person who/which:

a) was granted a licence for nation-wide terrestrial digital television broadcasting on the basis of a Council decision against which a complaint was filed with a court, and

b) meets the conditions specified in Section 13(3) of Act No. 231/2001.

6. In addition to the general submission details, a compensation licence application must also contain the details required for licence applications under Section 14(1) to (4) of Act No. 231/2001. Materials and documents that are available to the Council need not be submitted. The applicant is the only party to the proceedings. The Council shall grant the compensation licence within 60 days from the date of submission of the application. The Council's decision must contain the details specified in Section 18(3) and (4) of Act No. 231/2001. Negotiations on programme transmission in the electronic communications network between the party to the proceedings for the granting of a compensation licence under Point 4 above and an undertaking that provides the electronic communications network may be conducted even before the date of issue of the decision granting the compensation licence. In the case of compensation licence based on Point 4 above, the Council shall define the licence conditions in accordance with the application. Should the Council issue a decision to grant a compensation licence in accordance with Point 5 above, such a decision must contain broadcasting licence conditions which are the same as the conditions specified in the decision to grant a licence for nation-wide terrestrial digital television broadcasting against which a complaint was filed with a court; the programme shall be placed in the same electronic communications network, unless the compensation licence holder agrees otherwise with the undertakings providing the electronic communications network.

7. The compensation licence holder shall commence broadcasting within 360 days after the date of the granting of the compensation licence.

8. The compensation licence shall lose validity:

a) as at the date of completion of the transition from terrestrial analogue television broadcasting to terrestrial digital television broadcasting,

b) when 360 days have elapsed from the date on which it was granted, if the holder of the compensation licence fails to start broadcasting, or

c) for the reasons stated in Section 24 of Act No. 231/2001.

If a compensation licence holder fails to switch off terrestrial analogue television broadcasting, as specified in Point 4 above, by 10 October 2010, the compensation licence shall terminate with the expiry of this deadline. The compensation licence shall not terminate if a later date of transition from terrestrial analogue television broadcasting to terrestrial digital television broadcasting is determined in the Government Order promulgating the Technical Plan of Transition from Terrestrial Analogue Television Broadcasting to Terrestrial Digital Television Broadcasting, and if the impossibility to switch off terrestrial analogue television broadcasting by 10 October 2010 is ascribable to circumstances not on the side of the compensation licence holder. The compensation licence referred to in Point 5 above shall also terminate as at the date of commencement by its holder of terrestrial digital television broadcasting on the basis of a licence referred to under Point 5(a) above; should the holder of such a licence fail to start terrestrial digital television broadcasting on the basis of a licence

referred to under Point 5(a) above within 360 days from the date of termination of the suspensive effect of the filed complaint, the compensation licence shall lapse with the expiry of the 360-day period.

9. When creating its minimum programme range, an electronic communication network operator providing the transmission of terrestrial digital television broadcasting intended for reception by mobile telecommunication terminal equipment (a mobile telephone handset) and a cable rebroadcaster must ensure that the minimum range includes the broadcasting of all the nation-wide terrestrial digital programmes not protected by a conditional access system, which are broadcast by the nation-wide broadcaster on the basis of a nation-wide terrestrial digital television broadcasting licence or on the basis of a compensation licence. A nation-wide broadcaster shall make such programmes available to the electronic communication network operator providing the transmission of terrestrial digital television broadcasting intended for reception by mobile telecommunication terminal equipment (a mobile telephone handset) and to the rebroadcaster free of charge and the electronic communication network operator providing the transmission of terrestrial digital television broadcasting intended for reception by mobile telecommunication terminal equipment (a mobile telephone handset) and the rebroadcaster shall include these programmes in their minimum programme range also free of charge. The obligations of the electronic communication network operator providing the transmission of terrestrial digital television broadcasting intended for reception by mobile telecommunication terminal equipment (a mobile telephone handset) and of the cable rebroadcaster as well as of the nation-wide broadcaster, which obligations are specified in this Point, will terminate as at the date of completion of the transition from terrestrial analogue television broadcasting to terrestrial digital television broadcasting, or as at 31 December 2011, whichever is earlier. This is without prejudice to the rights and obligations resulting from the provisions of Article II Point 10 of Act No. 235/2006.

10. If so requested by the holder of a nation-wide terrestrial analogue and digital television broadcasting licence on whose basis a programme is broadcast as at the effective date of this Act, the Council may extend by 8 years the validity of that part of such a licence authorising terrestrial digital television broadcasting, provided that the holder of such a licence is at the same time a holder of a compensation licence under Point 4 above. An application for such an extension may be filed within 6 months from the date of finality of the Council's decision to grant the compensation licence. The applicant is the only party to the licence extension proceedings. The Council shall issue its decision on extending the validity of the licence within 60 days after the date when the application was filed. The legal effects of the extension of the validity of the licence shall terminate as at the date of termination of the compensation licence, except the termination reasons stated under Point 8(a) and (c).

11. Until the date of completion of the transition from terrestrial analogue television broadcasting to terrestrial digital television broadcasting, the television spots broadcast within an information campaign for the transition to digital television broadcasting, by which the viewers are informed about the conditions, implications and consequences of the transition to terrestrial digital television broadcasting, shall not be included in the time allocated to advertising under Section 50(1) to (3) of Act No. 231/2001.

12. During the period from the effective date of this Act to the first day of the calendar month following the date of completion of the transition from terrestrial analogue television broadcasting to terrestrial digital television broadcasting, the time allocated to advertising on the statutory broadcaster's ČT 1 Programme shall not exceed 0.75% of the daily broadcasting time. During the period from the effective date of this Act to the first day of the calendar month following the date of completion of the transition from terrestrial analogue television broadcasting to terrestrial digital television broadcasting, the time allocated to advertising on other programmes of the statutory broadcaster shall not exceed 0.5% of the daily broadcasting time on each of those programmes. By the broadcasting of teleshopping, the statutory television broadcaster may extend the proportion of advertising time specified in the above provisions up to 5 % of the daily broadcasting time on each of the programmes. During the period between 19.00 h and 22.00 h, the broadcasting of advertising spots and

teleshopping programmes by the statutory broadcaster must not exceed 6 minutes in one hour of broadcasting on each of its programmes.

## **Article II of Act No. 196/2009**

### **Transitional provisions**

1. If a licensed radio broadcaster doing the broadcasting on the basis of a licence granted to it by the Council for Radio and Television Broadcasting (hereinafter referred to as “the Council”) before the effective date of this Act, commits itself in writing to support in its broadcasting the transition to terrestrial digital radio broadcasting and switches off analogue broadcasting on the basis of the Government Resolution on Transition to Terrestrial Digital Radio Broadcasting, then such a licensed radio broadcaster shall be entitled to request the Council in writing to grant it a transformation licence, which will authorise it to continue broadcasting until 10 October 2025. The applicant shall be the only party to the proceedings. The administrative fees related to the granting of the transformation licence shall be governed by the same rules as in the case of a new licence.

2. In addition to the general submission details, a transformation licence application must also contain the details required in licence applications under Section 14(1) to (4) of Act No. 231/2001. Materials and documents that are available to the Council need not be submitted. The transformation licence application shall be delivered to the Council during the period from the beginning of the 24<sup>th</sup> to the end of the 18<sup>th</sup> month before the date on which the existing licence is to lose validity.

3. A licensed radio broadcaster may also include in its transformation licence application a request for consent to a change in the legal form of the company. The Council shall grant this request if the company is to be a public limited company with registered shares or a limited liability company. A natural person who is a licensed broadcaster may request in his/her transformation licence application that the licence, which was awarded to it, be transferred to a legal person. The Council will grant the request only in the case that the natural person has a 100% ownership interest in such a legal person.

4. The Council shall grant a transformation licence within 60 days of the date of submission of the application. The Council’s decision on the granting of the transformation licence shall contain details as specified in Section 18(3) and (4) of Act 231/2001. The Council’s decision on the granting of the transformation licence shall contain broadcasting licence conditions which are the same as the conditions on the basis of which the radio broadcaster does the broadcasting, except for the time for which the licence is granted pursuant to Section 18(4)(d) of Act No. 231/2001. If the Council does not decide within the prescribed period, the transformation licence shall be deemed to have been granted as at the last day of the prescribed period indicated in the first sentence of this paragraph.

5. The transformation licence shall lose validity:

- a) as at 10 October 2025,
- b) for reasons stated in Section 24 of Act No. 231/2001

6. Issuing a licence for analogue radio broadcasting to be transmitted via transmitters by analogue means, the Council is entitled to ensure that the validity of such a licence, including extension based on Section 12 of Act 231/2001, ends on 10 October 2025 or sooner.

7. The Council shall decide to withdraw a transformation licence if the broadcaster repeatedly fails to fulfil its written commitment under Point 1 above or fails to switch off analogue broadcasting on the stipulated date under the government resolution.

8. This Act is without prejudice to the licensed broadcasters’ programme licence conditions in force before the effective date of this Act, allowing licensed broadcasters to rebroadcast the statutory broadcaster’s programme or parts thereof.

## **Section 21 of Act No. 132/2010**

### **Transitional provisions**

(1) A legal or natural person who, as of the date on which the present Act enters into effect, provides a service consisting of the offering of a television programme via a transmission system referred to in Section 12(3)(c) of Act No 231/2001, as amended and effective as of the effective date of the present Act (hereinafter referred to as a “person providing a television programme”) – such service being regarded, as of the date on which the present Act enters into effect, as television broadcasting – shall submit an application for a television broadcasting licence in accordance with Section 25 of Act No 231/2001, as amended and effective as of the effective date of the present Act, to the Council for Radio and Television Broadcasting (hereinafter referred to as the “Council”) within 60 days from the effective date of the present Act. If a person providing a television programme fails to comply with the obligation under the first sentence, it shall terminate the provision of the television programme no later than the day following the date on which the deadline for compliance with the obligation ends. A person providing a television programme who complies with the obligation under the first sentence, but whom the Council decides not to grant a television broadcasting licence, shall terminate the provision of the television programme within 30 days from the date on which the Council’s decision is served on it.

(2) A television broadcaster broadcasting by cable system whose licence does not specify the territorial scope of broadcasting using the information under Section 14(1)(f) of Act No 231/2001, as amended and effective as of the date on which the present Act enters into effect, shall deliver such information to the Council within 60 days from the effective date of the present Act; failure to comply with this obligation shall be deemed an infringement of the licence conditions. The Council shall add the information specified in the first sentence to the licence of a television broadcaster broadcasting by cable system, and shall do so within 60 days from the date on which such information is delivered.

(3) A licensed television broadcaster whose broadcasting is not directed entirely or mostly towards the territory of the Czech Republic, or whose principal broadcasting language is not Czech, shall deliver to the Council, within 60 days from the effective date of the present Act, the information under Section 14(1)(j) of Act No 231/2001, as amended and effective as of the date on which the present Act enters into effect; failure to comply with this obligation shall be deemed an infringement of the licence conditions. The Council shall add the information specified in the first sentence to the licensed television broadcaster’s licence within 60 days from the date on which that information is delivered, and shall forthwith inform the regulatory body of the Member State of the European Union towards whose territory the television broadcasting is entirely or mostly directed.

(4) Proceedings initiated before the present Act enters into effect shall be completed in accordance with legislation applicable thus far.

(5) Section 53a of Act No 231/2001, as amended and effective as of the date the present Act enters into effect, shall not apply to programme units produced up to the end of 2009.

## **Article VIII of Act No. 153/2010**

### **Transitional provisions**

1. During the period of the transition from terrestrial analogue television broadcasting to terrestrial digital television broadcasting, a licensed television broadcaster and statutory television broadcaster shall ensure that, in the delivery of their television programmes via transmitters, the territorial coverage of their terrestrial analogue television broadcasting<sup>1)</sup> is not provided outside the limits determined in the Government Order laying down the Technical Plan of Transition<sup>2)</sup> in areas where digital television broadcasting territorial coverage is enabled<sup>1)</sup>.

2. If the Council for Radio and Television Broadcasting receives a complaint regarding a breach of the conditions specified in Point 1 above, it shall start proceedings to restrict the set of technical parameters of broadcasting. The Council for Radio and Television Broadcasting shall notify the Czech Telecommunication Office that the proceedings were started and shall request a binding opinion from the Czech Telecommunication Office. If the complaint referred to in the first sentence is filed by the Czech Telecommunication Office, a binding opinion shall be attached thereto without request.

3. The Czech Telecommunication Office shall start proceedings to withdraw individual authorisations to use radio frequencies under Section 19(4)(a) of Act No. 127/2005, as amended and effective from the date on which the present Act enters into effect, in the event that the breach of the conditions specified in Point 1 above was committed by a statutory television broadcaster.

4. The Council for Radio and Television Broadcasting shall terminate any licensing procedures concerning terrestrial digital radio broadcasting via transmitters that have been commenced but not completed with finality by the effective date hereof.

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1) Decree No. 163/2008 on the method for determining terrestrial television broadcasting signal coverage.

2) Government Order No. 161/2008 laying down the technical plan of the transition of terrestrial analogue television broadcasting to terrestrial digital television broadcasting (Government Order laying down the Technical Plan of Transition).

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1) Directive 89/552/EEC of the European Parliament and of the Council of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive).

Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997, 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.

Directive 2007/65/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.

1a) Act No. 127/2005, on electronic communications and on amendments to certain related Acts (Electronic Communications Act), as amended.

1b) Act No. 206/2005, on the protection of certain radio and television broadcasting services and information society services.

1c) Section 12(2) of Act No. 89/1995, on the state statistical service.

1d) Section 3(3) of Act No. 483/1991, as amended, and Section 3(4) of Act No. 484/1991, as amended.



- 1e) Act 132/2010 on on-demand audiovisual media services and on amendment to certain Acts (the On-demand Audiovisual Media Services Act).
- 2) Act No. 151/2000, on telecommunications and on amendment to other Acts.
- 3) Act No. 483/1991, on the Czech Television, as amended.
- 4) Act No. 484/1991, on the Czech Radio, as amended.
- 4a) Section 2(3) of the Commercial Code.
- 4b) European Convention on Transfrontier Television, as amended by Protocol amending the European Convention on Transfrontier Television, declared under No. 57/2004 m. s.
- 4c) Article 43 *et seq.* of the Treaty Establishing the European Community, Official Journal C 340 of 10 November 1997.
- 4d) Section 21(1), (2), (4) and (5), Section 22 *et seq.* of the Commercial Code.
- 4e) Section 21(1), (2), (4) and (5), Section 22 *et seq.* of the Commercial Code.
- 4f) Section 72 of Act No. 127/2005.
- 5) For example, Act No. 101/2000, on personal data protection and on amendment to certain Acts, as amended, Act No. 513/1991, Commercial Code, as amended.
- 5a) Regulation (EC) 2006/2004 of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws (Regulation on Consumer Protection Cooperation).
- 6) Act No. 451/1991, laying down certain additional conditions of service in certain positions in the state authorities and organisations of the Czech and Slovak Federative Republic, the Czech Republic and the Slovak Republic, as amended.
- 7) Act No. 236/1995, on salaries and other compensations related to the discharge of office of representatives of state power and certain state authorities, and judges, as amended.
- 8) Act No. 218/2000, on budget rules and on amendment to certain related acts (Budget Rules), as amended.
- 8a) Act No. 218/2002, on the service of civil servants in administrative authorities and on the remuneration of these employees and other employees in administrative authorities (Civil Service Act).  
Sections 29 and 40 of Act No. 71/1967, on administrative procedure (Rules of Administrative Procedure).
- 9) Act No. 111/2009, on basic registers.
- 9a) Section 303(2)(b) of the Labour Code.
- 9b) Section 65 *et seq.* of Act No. 150/2002, Code of Administrative Justice.
- 9b) Section 21(4) and (5) of the Commercial Code.
- 9c) Section 65 *et seq.* of Act No. 150/2002, Code of Administrative Justice.
- 9d) Article VIII of Act No. 153/2010, amending Act No. 127/2005, on electronic communications and on amendment to certain related Acts (Electronic Communications Act), as amended, and certain other Acts.
- 9e) Sections 81 to 102 and Section 152 of the Rules of Administrative Procedure.
- 9f) Act No. 269/1994, on the Criminal Register, as amended.

- 11a) Section 66a of the Commercial Code.
- 12) Article 3(b) of Regulation (EC) 2006/2004 of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws (Regulation on Consumer Protection Cooperation).
- 13) Article 3(k) of Regulation (EC) 2006/2004 of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws (Regulation on Consumer Protection Cooperation).
- 14) Article 24 of the European Convention on Transfrontier Television, as amended by Protocol amending the European Convention on Transfrontier Television.
- 15) Article 24 bis of the European Convention on Transfrontier Television, as amended by Protocol amending the European Convention on Transfrontier Television.
- 16) Article 3(1) of Directive 89/552/EEC of the European Parliament and of the Council of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive), as amended by Directive 97/36/EC of the European Parliament and of the Council and Directive 2007/65/EC of the European Parliament and of the Council.
- 17) Article 23a of Directive 89/552/EEC of the European Parliament and of the Council of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive), as amended by Directive 97/36/EC of the European Parliament and of the Council and Directive 2007/65/EC of the European Parliament and of the Council.
- 18) Article 3(2) and (3) of Directive 89/552/EEC of the European Parliament and of the Council of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive), as amended by Directive 97/36/EC of the European Parliament and of the Council and Directive 2007/65/EC of the European Parliament and of the Council.