

ACT No 468/1991 ON RADIO AND TELEVISION BROADCASTING AS AMENDED BY LATER REGULATIONS

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Year: 1991

The National Council of the Slovak Republic has passed the following Act

SECTION I. GENERAL PROVISIONS ➡

§ 1. The Effect of the Act

The Act amends the rights and obligations of legal and natural persons and state bodies in radio and television broadcasting.

§ 2. The Basic Concepts

(1) The purposes of this Act are :

radio and television broadcasting /hereinafter "broadcasting"/ is transmission of programmes or visual and audio information via transmitters, the territory of the Slovak Republic he can become a licence holder only for the current, complete and unamended transmission of currently broadcast programmes.

(3) A natural person can become a licence holder only if he is permanently resident on the territory of the Slovak Republic. If a natural person is granted a licence according to this Act, he is obliged to register in the company register.

SECTION II. THE AUTHORIZATION AND OBLIGATIONS OF THE OPERATOR ➡

§4. The Contents of the Programmes

(1) Operators broadcast programmes freely and independently. Only on the basis of the Act and its limitations can changes be made in their contents.

(2) Operators provide objective and well balanced information necessary for a free expression of opinion.

§ 5. The Obligations of Operators

Operators are obliged :

to ensure that programmes which are in contradiction to the Constitution of the Slovak Republic are not broadcast

to ensure that broadcast programmes do not promote war and do not describe cruel, or other inhuman actions in such a way as to minimize, excuse or approve them;

not to broadcast programmes between 6.00 a.m. and 10.00 p.m. which could endanger the mental and moral development of children and young people;

to provide state bodies and public administration bodies essential broadcasting time for important and urgent announcements in the public interest at such time whereby any delayed danger could be reduced to a minimum;

to keep a record of all broadcast programmes for at least 30 days from the date of their broadcast;

to make agreements with organizations of the collective management of laws, which have been granted a right to carry out the collective management of laws according to a special prescription;¹

to ensure that the relations, which are contrary to the laws governing the rules on the election to the National Council of the Slovak Republic, authorities of self-administration, rules on the election of the Slovak Republic's president, as well as the rules of the manner of the referendum execution are not broadcast;

to broadcast a notification of the found infringement of the law or conditions of the granted license in the extent, form and transmission time determined by the Council of the Slovak Republic for Radio and TV broadcasting.

§ 6. Operator's Obligations when Broadcasting Commercials

(1) Operators are obliged to pay attention so that the following commercials are not included :

commercials, which encourage behaviour threatening morality, the interests of consumers or the interests of health protection, safety or the environment;

commercials designed for children or those in which there are children if they encourage behaviour threatening their health, mental or moral development;

commercials for medicaments available on a medical prescription only;

hidden commercials or commercials which make use of the subliminal reception of man ;

commercials in which announcers and editors of news and political or journalistic programmes take part;

religious or atheist commercials and commercials for political parties and movements

unless a special law states otherwise

(2) Broadcasting operators are obliged to ensure that commercials are :

distinguishable and their sound or vision is clearly separated from other programmes;

placed between the individual programmes with the exception of programmes consisting of independent parts or sports transmissions from events and performances which contain breaks;

commercials for medicaments and mass production of medical preparations must be clearly identified as such and the effects of these medicaments and mass produced medical preparations be verified in line with valid regulations and correctly indicated;

not included immediately before religious service broadcasts or immediately after them.

(3) Operators are obliged to ensure that the advertiser can in no way influence the content of the programme in the broadcast or its programme composition.

§ 7. The Timetable of Broadcast Commercials

(1) For television broadcasting, the time allotted for commercials must not exceed 3 % for operators under the Law, 10% for licence holders of daily broadcasting time of the programme; this share can be increased by the operator under the Law to 10% and by licence holder to 20 %, namely on direct offer to the public for purchase, sale or lease of products or provision of services which, however, must not amount to more than one hour daily; during one hour the time allotted to commercials cannot exceed 12 minutes. For operators under the Law the time allotted to commercials between 7.00 p.m. and 10.00 p.m. must not exceed 6 minutes during one hour.

(2) In radio broadcasting the time allotted to commercials cannot exceed more than 5% for operators under the Law, for licence holders 20% of daily broadcasting time.

(3) The operator under the Law can broadcast commercials in the range FM II till the time of the transformation of the broadcast from the norm OIRT (FM I) to CCIR (FM II) in the range of 3%.

§ 8. Operators' Obligations when Broadcasting Sponsored Programmes

Operators are obliged :

to define each programme or series of programmes which are completely or partially sponsored at the beginning or at the end by using suitable titles or announcements;

to ensure that the contents of sponsored programmes do not promote the sale, purchase or lease of products or services of the sponsor or a third person, especially if their products or services are specially mentioned in these programmes;

to ensure that the contents and time allotted to the sponsored programme for broadcasting cannot be influenced by a sponsor;

to ensure that the programmes are not sponsored by natural or legal persons whose main

activity is the production, sale or lease of products or provision of services for which commercials are not permitted (§ 6, Part 1, Letter c);

to ensure that there are no sponsored news and political or journalistic programmes.

§9. Special Obligations and Authorization of Operators under the Law

(1) The basic mission of operators under the Law is to serve the public interest, to contribute towards the creation of a democratic society and reflect the plurality of opinion, whereby their broadcasts must not unilaterally look only to individual views, to one religious belief or image of the universe, to the interest of one political party, movement, group or part of society.

(2) Operators under the Law are obliged :

to ensure, in co-operation with the relevant bodies and organizations of communications, the transmission of their programmes for the population of the territorial unit for which the broadcast was designed;

to ensure a multifarious composition of programmes which in their entirety should meet the interests of all sections of the population;

to produce or have produced a significant part of their broadcast programmes to preserve and develop the cultural identity of the nation, nationalities and ethnic groups of the Slovak Republic and to support the development of home and European audiovisual production;

to enable the mutual exchange of information and cultural values between the republics of the federation.

to use all their financial resources to perform the tasks stipulated by this Act.

(3) The relevant authorities of the Slovak Republic shall decide about the division of the spectrum of frequencies and the broadcasting network between the operators under the Law and licence holders.

(4) The operators under the Law shall ensure their broadcasting mainly by means of a uniform telecommunications network,⁵

(5) The incomes from concessionaire fees for the usage of radio receivers and television receivers in the extent determined by special prescriptions,⁶ are the income of the operator under the law.

SECTION III. THE LICENCE PROCEDURE ➡

§ 10. The Terms for Granting a Licence

(1) A licence authorizes its holder to broadcast within the scope and under the terms stipulated therein.

(2) A licence is not transferable.

(3) A licence is granted by the Slovak Council for Radio and Television Broadcasting /hereinafter the "Council"/. The licences for national broadcasting with the coverage of the whole territory is approved by Parliament and then granted by the Council. There is no legal right to the granting of a licence.

(4) The Council shall consider during the examination of an application (Article 11) ensuring terms for the plurality and balance of the programme offer, particularly of local programmes, of equal access to cultural values, information and views as well as ensuring the development of the cultures of the nations, nationalities and ethnic groups in the Slovak Republic and the extent of the applicant's current business in the sphere of the mass media.

(5) When assessing an application, the Council shall ensure that no applicant acquires a dominant position in the mass media.

(6) When assessing an application made by companies with foreign property participation, the Council shall take into account the contribution of an applicant to the development of original home production as well as the property participation of Slovak persons and their representation in the company bodies.

(7) An operator under the Law must not be a partner of a commercial company which is applying for a licence or which has already been granted a licence.

§ 11. The Application for a Licence

(1) The procedure for granting a licence begins with the submission of an application which must contain the following data :

the name, registered office and legal form of the legal person and the name of the person authorized to act on its behalf or the name and the permanent residence of a natural person who intends to broadcast;

documents about the level of the basic capital (equity) and deposits of the individual participants, bank information, similar data and information if the applicant is a natural person;

the time and territorial scope of broadcasting and its technical and organizational method;

marking the programmes /name of the station/

programme composition of broadcasting with a proposal for a broadcasting scheme;

a sum or a share of the costs which the applicant will use annually for the production of programmes locally;

the share of broadcasting time devoted to home produced programmes;

the period for which a licence is being requested.

(2) If the applicant is an operator or owner of another form of mass media in the Slovak Republic or abroad or a participant in a company operating another form of mass media in the Slovak Republic or abroad, it will inform the Council of the same data listed in paragraph 1 also about this form of mass media.

(3) The participant in the procedure for granting a licence is he who applies for one.

(4) If the applicant is a natural person, he will enclose with the application, a document or proof of a clean record and permanent residence on the territory of the Slovak Republic.

§ 12. The Decision about Granting the Licence

(1) The Council will consider the application for granting the licence and make a decision within 90 days from the beginning of the procedures.

(2) The decision for granting a licence is issued in agreement with the relevant administration body of communications about providing a frequency and further technical broadcasting terms which must comply with the plans for the use of frequencies for radio and television broadcasting.

(3) The decision to grant a licence, apart from the terms mentioned above in paragraph 2, will also include terms which the Council fixes for the broadcasting operator.

(4) The decision to grant a licence is issued for radio broadcasting for a period of 6 years and for television broadcasting for 12 years at most.

(5) The decision to grant a licence comes into force on the date when the Council receives a written declaration from the applicant in which he states that he accepts the decision of the Council. This declaration must not contain any provisos and must be delivered within thirty days after the delivery of the Council's decision, which granted the licence. Otherwise the decision about the granting of a licence ceases to have effect and the application for the granting of a licence is regarded as not having been submitted at all.

(6) At the request of the founders or bodies or persons authorized to submit a proposal for the registration of a Slovak legal person in the company register, a decision about granting a licence can be issued before the registration in this register, if it is proved that a legal person has been established. For these persons the right to broadcast begins on the day of the registration in the commercial register. The same procedure applies to persons who have no registered office on the territory of the Slovak Republic.

(7) cancelled

§13. The Validity of the Licence

The licence ceases to apply :

with the expiry of the period for which it was granted;

with the end of the legal person who is the licence holder;

with the expiry of 30 days from the death of a natural person who is the licence holder;

with the expiry of 60 days if the licence holder has not registered in the company register (§3, Para. 3)

with the decision of the Council granting the licence to remove can remove a licence if :

-the licence holder has not commenced broadcasting after the licence comes into effect by the decision to grant it in the period within :

ba) 180 days for radio broadcasting

bb) 360 days for television broadcasting

if, however, another term has been determined in the licence conditions, this term is valid

-the licence holder after commencing broadcasting in the course of the calendar year and in contradiction to the terms of the licence, has not broadcast for a total of 30 days, this does not include the period during which broadcasting could not take place due to justified technical obstacles;

on the holder's property bankruptcy has been promulgated or finished, 7

(3) If the licence has been removed due to the reasons stated in Paragraph 2, no application for a new licence can be submitted, for a year after the decision to remove the licence became legally valid.

(4) If the licence has been removed, its holder is obliged to return the licence, without unnecessary delay to the body which granted it.

SECTION V. CABLE DISTRIBUTION ➡

§19

(1) Apart from the data stated in § 11, Par. 1 and 2 the applicant must state in a licence application concerning cable broadcasting :

the territorial extent of cable distribution;

information about radio and television programmes which he intends to extend

in cable distribution and about the planned content of the channels;

justification as to the way in which cable distribution will serve the interest of the community, town or region ;

the technical specification of the cable distribution approved according to the relevant regulations; 8

in what way he will ensure that the rights of third persons, above all copyrights will not be at variance with broadcasting by cable distribution.

(2) An operator of cable distribution is obliged to ensure that programmes of an operator broadcasting under the Law which are receivable by the usual means in the locality of the cable network must be included in the cable distribution.

The operator of the cable network is obliged to announce such a case to the operator under

the Law and to inform him of all participants of cable distribution signal reception as well.

(3) In cable distribution one channel can be reserved for commercials. The time limit for broadcasting commercials according to § 7, does not apply to this channel nor to current, complete and unaltered trans-mission of already broadcast programmes.

(4) The operator of cable distribution is obliged to provide free of charge one channel for broadcasting for local needs covered by cable distribution. This channel cannot be used for commercial purposes without the operator's consent.

SECTION VI. SANCTIONS ➡

§20

(1) If the Council finds out that the operator violates the obligations determined by this Act or the conditions of the granted licence, it will determine the term for a remedy. If there is no remedy during the determined term, the Council will set a fee to him. The provisions of the §15 are not touched.

(2) If the Council finds out that the operator has infringed the obligations stated in § 5, item a), b), c), g) and h), he may decide on the infliction of a fine without previous determination of the term of remedy.

(3) The level of the fine depends on the seriousness of the matter, the extent of guilt and the impact of broadcasting and the level of acquired but unjustified wealth.

(4) A fine of 1.000 to 500 000 SK can be imposed on an operator who :

does not provide essential broadcasting time for important and urgent announcements in the urgent interest of the public (§ 5, Letter 4);

destroys the recordings of broadcasted programmes before the 30 days deadline from the time of their broadcast (§ 5, Letter 5);

does not allocate the programmes of the operator under the Law in the cable distribution (§ 19, Letter 2);

will not provide one channel for free broadcasting on cable for local needs (§ 19, Letter 4)

(5) A fine may be imposed from 50.000 to 5.000.000 SK on an operator who

broadcasts a programme whose content is at variance with the obligations of the operators stated in § 5, letter a), b), c), g) and h) of this Act;

broadcasts a programme which could endanger the mental or moral development of children and young people at times before 10.00 p.m.

(6) A fine may be imposed from 10.000 to 2.000.000 SK on the operator who violates the obligations stated by this Act or the terms of the granted licence whereby

he did not observe the fixed time and territorial extent of broadcasting;

he did not observe the stipulated structure of the programmes;

he did not observe the obligations fixed for the broadcasting of commercials and sponsored programmes;

he did not observe the obligations as far as this concerns the production of programmes at home or broadcasting such programmes or a share of programmes taken over from other operators;

he does not announce changes in data stated in the application or changes concerning the fulfilment of the terms of a granted licence which could be the reason for the change or withdrawal of the licence (§ 14 and 15).

(7) A fine fixed according to Paragraph 5 will be imposed on someone who operates broadcasting while not authorized to do so (§ 3).

(8) The fine may be imposed within a year from the date when the body stated in §16 discovered the violation of obligations, however, within two years at the latest from the date when the violation of obligations occurred.

(9) The payment of the fine according to the previous paragraphs does not affect the provisions of the special regulations on compensation for damage⁹, neither do the obligations disappear as fixed by the Act.

(10) A fine imposed according to Para.1 to 6 is payable within 30 days from the date when the decision imposing it becomes legally valid.

(11) The proceeds from the fines are income for the state budget of the Slovak Republic.

SECTION VII. JOINT, TEMPORARY AND FINAL PROVISIONS ➡

§ 21

Unless the Act states otherwise, decision-making procedures are followed according to Act No.71/1967 Coll. on administrative procedures (The Administrative Code) with the exception of §49 and § 53 to 69. A legal remedy can be submitted to The High Court of the Slovak Republic 11 against a decision whereby an application for the granting of a licence is refused (§ 12), a decision on the alteration of a licence (§ 14), a decision to withdraw the licence (§ 15) and a decision on the imposition of a fine (§ 20), in this decision the delaying effect of a corrective means can be excluded, if the character of the thing demands it.¹²

In case of need, the Council and the authorities of the Republic have the right to request the record of the broadcast programme.

§ 25

(1) Legal and natural persons who were able to broadcast on the basis of an ordinance of the presidium of the government of the Slovak Republic or on the basis of a decision of the National Council are obliged to ensure that their activities comply with this Act and to apply for a licence (§ 11) within 30 days after the establishment of the Council. Until the time these legal or natural persons reach a decision, they are considered to be operators of broadcasting according to this Act.

(2) The licence issued by the inter-departmental commission of the government of the Slovak Republic and the commission of the Slovak Republic's Ministry of Culture for the selection of applicants for non-state broadcasting is considered to be a licence granted according to this Act. It expires on 31/12/1995.

(3) The deadline according to §15, Par. 2, Letter b) comes into force for licences issued according to Paragraphs 1 and 2 on the date of receipt of the transmission routes (part of the frequency spectrum).

(4) In television broadcasting for operators under the Law, the time allotted by 31/12/1992 for commercials may amount to up to 5 % of the daily broadcasting time of a channel.

§ 26

Act No 35/1965 Coll. on literary, research, and artistic works (copyright) as amended by the Act No 89/1990 Coll. (complete wording No 247/1990 Coll.) is being changed thus:

1. § 6 Par.1 is worded:

"(1) An independent use of a work of art, with the exception of its broadcasting by radio or television, is every next public distribution of a work of art broadcast in this way with the help of whatever equipment for the transmission of sounds or picture, if this distribution is being realized by an entity other than the organization of the original broadcast."

2. § 16, Par. 3 is cancelled

§ 28

The Act No 424/1991 Coll., on association in political parties and in political movements is being changed:

In § 17, Par. 4, Letter a) the words "radio and television stations" are omitted.

§ 29

This Act comes into effect on the date of its declaration.

Act No 597/1992 Coll. came into force on 23rd December, 1992, Act No 166/1993 Coll. came into force on 30th July, 1993, Act No 325/1993 Coll. came into force on 1st January, 1994, Act No 212/1995 Coll. came into force on 1st November, 1995, Act No 220/1996 Coll. came into force on 1st September, 1996, Act No 160/1997 Coll. came into force on 1st July, 1997, Act No 283/1997 Coll. came into force on 1st December, 1997, Act No 187/1998 Coll. came into force on June 18th 1998, Act No 46/1999 Coll. came into force on 19 th March 1999, Act No 223/1999 of the Law digest came into force on 4th September 1999

1 Article I of the Act No 283/1997 Coll. on the collective management of laws according to copyright and on the change and completion of some laws.

3 The Czecho-Slovak medicine description, the 4th issue, indebtedness in the Czech Republic determined by the notice of the Ministry of Health of the CSR No 10/1987 Coll. on the indebtedness of the Czechoslovak medicine description - fourth issue in CSR as amended by the notice of the Ministry of Health and social matters CSR No 62/1990 Coll. on indebtedness of remedies and changes of the Czechoslovak medicine description - the

fourth issue in the SSR as amended by the notice of the Ministry of Health of the SR No 181/1991 Coll. on indebtedness of remedies and changes and amendments of the Czecho-Slovak medicine description - of the fourth issue.

5 Act No 110/1964 Coll. on telecommu-nications as amended by later regulations.

6 §4 of the Act of the National Council of the Slovak Republic No 468/1991 Coll. on the operation of radio and television broadcasting as amended by later regulations.

7 The second part of the Act No 328/1991 Coll. on competition and adjustment

8 The Notice of the Federal Ministry of telecommunications No 360/1991 Coll., by which the Notice of the Federal Ministry of telecommunications No 73/1974 Coll. on common distributions of radio and television signals via cable is being changed.

9 Civil Code. Act No 65/1965 Coll. of the Labour Code as amended by later regulations.

11 § 246, Par. 2, Letter c) of the Civil judicial order.

12 §55, Par. 2 and 3, of the Act No 71/1967 Coll. on management procedures (management order).